

(F) Whoever violates any provision of this section is guilty of a misdemeanor of the fourth degree. A second violation of this section shall result in guilt for a misdemeanor of the first degree. (Ord. 3-1975, passed 1-7-75; Am. Ord. 14-2015, passed 12-21-15) Penalty, see§ 130.99

### LAND USAGE

#### FIRE CODE

#### §\_150.01 INCORPORATION BY REFERENCE.

(A) There is hereby adopted by the village, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the "Ohio Fire Code," recommended by the state, department of commerce, division of state fire marshal, being particularly the 1973 edition thereof, and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended. ('75 Code, § 1602.01)

(BJ A complete copy of the "Ohio Fire Code" adopted herein is on file with the clerk-treasurer for inspection by the public and also on file in the county law library. In addition, the clerk-treasurer has copies available for distribution to the public, at cost. ('75 Code, § 1602.02)

#### § 150.02 ENFORCEMENT.

The fire code shall be enforced by the fire department of the village. ('75 Code, §1602.03)

#### § 150.03 STORAGE OF EXPLOSIVES AND BLASTING AGENTS PROHIBITED.

The storage of explosives and blasting agents is prohibited within the entire corporate limits of the village. ('75 Code, § 1602.04) Penalty, see§ 150.99

#### § 150.04 STORAGE OF FLAMMABLE LIQUIDS IN OUTSIDE, ABOVEGROUND TANKS PROHIBIT ED.

(A) The limits referred to in Section 16.5 of the "Ohio Fire Code" (Section 16.22a of the "American Insurance Association Fire Prevention Code," adopted by Section FM-3-01 of the "Ohio Fire Code") in which storage of flammable liquids in outside aboveground tanks is prohibited, are hereby established as the entire corporate limits of the village.

(B) The limits referred to in Section 16.6 of the "Ohio Fire Code" (Section 16.61 of the "American Insurance Association Fire Prevention Code," adopted by Section FM-3-01 of the "Ohio Fire Code") in which new bulk plants for flammable liquids are prohibited, are hereby established as the entire corporate limits of the village. ('75 Code, § 1602.05) Penalty, see§ 150.99

§ 150.05 BULK STORAGE OF LIQUEFIED PETROLEUM GASSES RESTRICTED.

The limits referred to in Section 21.6a of the "Ohio Fire Code" and the "American Insurance Association Fire Prevention Code," adopted by Section FM-3-01 of the "Ohio Fire Code," in which bulk storage of liquefied petroleum gas is restricted, are hereby established as the entire corporate limits of the village.

('75 Code, § 1602.06) Penalty, see § 150.99

§ 150.06 ROUTES FOR VEHICLES TRANSPORTING EXPLOSIVES AND DANGEROUS ARTICLES.

(A) Routes for vehicles transporting explosives and blasting agents shall be all state routes in the village.

(B) Routes for vehicles transporting hazardous chemicals and other dangerous articles shall be all state routes in the village.

('75 Code § 1602.07) Penalty, see § 150.99

Cross-reference:

Requirements for vehicles transporting explosives, § 74.36

§ 150.07 FIRE LANES.

The fire lanes referred to in Section 28.16 of the "Ohio Fire Code" and the "American Insurance Association Fire Prevention Code," adopted by Section FM-3-01 of the "Ohio Fire Code," shall be established by the fire chief.

('75 Code, § 1602.08)

§ 150.08 MODIFICATIONS.

The fire chief shall have power to modify any of the provisions of the fire code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of the modification, when granted or allowed, and the decision of the chief thereon, shall be entered upon the records of the fire department, and a signed copy shall be furnished the applicant.

('75 Code, § 1602.09)

§ 150.09 CONFLICTS.

In the event of any conflict between any of the provisions of the "Ohio Fire Code" adopted herein and a provision of this chapter or any other local ordinance or provision, the higher or stricter standard shall prevail.

('75 Code, § 1602.10)

§ 150.99 PENALTY.

(A) Whoever violates any of the provisions of this chapter or fails to comply therewith; or violates or fails to comply with any order

made hereunder; or builds in violation of any detailed statement of specifications or plans submitted and approved hereunder or any certificate or permit issued hereunder, and from which no appeal has been taken; or fails to comply with such an order as affirmed or modified by a court of competent jurisdictions shall severally for each and every such violation and noncompliance respectively, be fined not more than \$100. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy violations or defects within a reasonable time. When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(B) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.  
( '75 Code, § 1602.99)

#### **ZONING CODE**

##### § 151.01 TITLE.

This chapter, and the rules, regulations, procedures, and map contained herein, shall be known, cited, and referred to as the "Village of Navarre Zoning Code" or just the "Zoning Code."  
(Ord. 895, passed 2-18-64)

##### § 151.02 PURPOSE.

The zoning code is adopted to promote the public health, safety, convenience, prosperity, and general welfare by establishing districts of appropriate number, shape, and area, and by regulating therein the use, height, bulk, and location of land and structures, including building setback lines and the area and dimensions of yards and other open spaces in those zones or districts.  
(Ord. 895, passed 2-18-64)

##### § 151.03 APPLICATION OF CODE; CONFLICTS.

The provisions of this zoning code shall be considered to be the minimum requirements necessary for the public health, safety, and general welfare, and shall apply uniformly to each kind or class of building, structure, or land located within the corporate limits of the village. Whenever the requirements of this zoning code are at variance with a statute or other lawfully adopted rule, regulation, ordinance, deed restriction, or covenant, the more restrictive requirement shall govern.  
(Ord. 985, passed 2-18-64)

##### § 151.04 SEVERABILITY.

Should any section or provision of this chapter be declared by any court to be unconstitutional or invalid, that decision shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.  
(Ord. 895, passed 2-18-64)

§ 151.05 DEFINITIONS.

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

"ABUTTING." Bordering.

"ACCESSORY BUILDING OR USE." A subordinate structure or use located on the same lot as the main building, the use of which is incidental to that of the main building. No accessory building shall be used for any purpose other than that allowed by existing or future village ordinances.

"ACCESSORY STRUCTURE." A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

"ADJACENT." Lots sharing a common lot line or are separated by a public or private street, rail line, or water body.

"AGRICULTURE." The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packaging, treating or storing produce.

"ALLEY." A public way, contemplated for the use of vehicular traffic, which affords secondary means of access to property abutting thereon.

"ALLEY LINE." A lot line bordering on any alley.

"ALTERATION, STRUCTURE." Any change or replacement which would tend to prolong the life of the supporting or structural members of any building or structure, such as bearing walls, columns, joists, beams, girders, and the like.

"APPEAL." A request for review of the zoning inspector's interpretation of any provision of this chapter or a request for a variance.

"AREA OF SHALLOW FLOODING." A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident, such flooding is characterized by ponding or sheet flow.

"AREA OF SPECIAL FLOOD HAZARD." The land in the floodplain subject to a 1% or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, A1-30, and A99.

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

"AUTOMOBILE SERVICE STATION." A building, structure or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or minor accessories, and other customary incidental service. When such dispensing, sale or offering for sale is incidental to the conduct of a public garage, the use shall be classified as a public garage.

"AUTOMOBILE WRECKING." The dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

"BASE FLOOD." The flood having a 1% chance of being equaled or exceeded in any given year. The "BASE FLOOD" may also be referred to as the 100-year flood.

"BASEMENT." A portion of a building with a floor level more than two feet below the average finished grade but having more than half its clear height below the average finished grade.

"BED AND BREAKFAST." Guest bedrooms within a private dwelling unit which are offered for compensation by the day, week, or month, for lodging or meals and lodging and in which no cooking or similar housekeeping equipment, other than refrigerators, microwaves and beverage-makers, may be provided.

"BILLBOARD OR SIGNBOARD." Any sign situated on private premises on which the written or pictorial information is not directly related to the use of the land on which such sign is located. A display sign is a structure that is arranged, intended, designed or used as an advertisement, announcement, or direction.

"BOARD." The board of zoning appeals of the village.

"BOARDING HOUSE OR ROOMING HOUSE." A building designed for group-residential occupancy where the individual resident does not have separate cooking facilities, but may be furnished board for compensation.

"BUILDING." Any structure affixed to the land, having one or more floors and a roof supported by columns or walls designed for the support, enclosure, or protection of persons, animals, or property of any kind, not including any trailer, house trailer, or mobile home.

"BUILDING AREA." The area at the ground level of the main and accessory buildings measured from the outside surface of the exterior walls, excluding porches, steps, and terraces.

"BUILDING HEIGHT." The vertical distance measured from the average finished grade at the front of the building to the highest point of the coping of a flat roof, or to the mean level between the eaves and ridge of a pitched roof.

"BUILDING LINE." A line measured from the front lot line which defines the limits of the front yard, in which no building or structure above ground may be located, except as otherwise provided in this chapter.

"BUSINESS." The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance of operation of offices, or recreational and amusement enterprises for profit.



"CARPORT." A covered automobile parking space not completely enclosed by walls or doors. A carport shall be subject to all provisions in these regulations for a private garage or accessory building.

"CEMETERY." Land intended and used for the burial of human or animal remains, including mausoleums and mortuaries.

"CLEAR TRUNK." The area along the trunk or trunks of a tree from the finish grade at the base of the tree to the first branch protruding from its trunk or trunks. This area is free from branches either naturally or by trimming close to the trunk to increase visibility past the tree.

"COMMISSION." The planning commission of the village.

"COUNCIL." The village council.

"DENSITY." The allowable dwelling units per acre of land.

"DETERIORATION." The condition or appearance of the exterior of the building or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect or lack of maintenance.

"DEVELOPMENT." Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"DISCARDED MOTOR VEHICLE." Any inoperable, damaged or wrecked motor propelled vehicle or accessory to the same, which is in the process of being wrecked or dismantled, stored or has a value of \$100 or less or which does not have a license thereon is valid or was valid not more than three months previous.

"DISTRICT."

(1) All properties or lots of the same use, height and area classification which adjoin or are continuous without intervening property or another classification and regardless of any street, alley, easement or reserve that may intervene shall constitute a district.

(2) The greatest dimensions of the area included in a district shall be the length of the projection of the district upon the centerline of a street which passes through the district or upon which the property abuts, such projections being made at right angles to the street.

"DWELLING." Any building or portion thereof containing one or more dwelling units designed for or occupied exclusively for residential purposes, not including any trailer, house trailer, or mobile home. (Ord. 4-67, passed 3-7-67)

"DWELLING UNIT." A group of rooms within a building forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating purposes by one family.

"DWELLTNG, ONE FAMILY." A detached building containing one dwelling unit and designed for or occupied by only one family.

"DWELLING, MULTI FAMILY." A building containing three or more dwelling units and designed for or occupied by three or more families living independently of each other.

"DWELLING TWO-FAMILY." A building containing two dwelling units and designed for and occupied by only two families living independently of each other.

"ERECT." Construct, build, raise or establish either under, upon or above the ground surface.

"ESSENTIAL SERVICES." The erection, construction, alteration or maintenance by public utilities or municipal or other governments of underground or overhead gas, electricā, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment, and accessories in connection therewith; reasonable necessity for the furnishing of adequate service by such public utilities or municipal or other government or for the public health or safety or general welfare, but not including buildings.

"EXPLOSIVE." A chemical or material used to create an explosion

"EXTERIOR." Those portions of a building which are exposed to public view and the open space of any premises outside of any building.

"FAMILY." One or more persons, related by blood, marriage, or adoption, who live together in one dwelling unit and maintain a common household; or not more than three persons, not related by blood, marriage, or adoption, who live together in one dwelling unit and maintain a common household.

"FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)." The agency with the overall responsibility for administering the National Flood Insurance Program.

"FLOOD OR FLOODING." A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

' FLOOD INSURANCE RATE MAP (FIRM).' An official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

\\FLOOD INSURANCE STUDY." The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.

"FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

\\FLOOR AREA." The sum of the gross horizontal areas of the one or several floors of a building, measured from the exterior faces of the exterior walls or the centerline of common walls separating two buildings. Floor area for the purpose of these regulations, shall not include basement, garage, elevator and stair bulkheads, attic space, terraces, breezeways, open porches, and uncovered steps.

\\FRONTAGE." All of the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street - or the entire street if not intersected, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

\\GARAGE, PRIVATE." An accessory building or part of a main building designed or used solely for storage of the occupants' passenger automobiles and not more than one commercial vehicle of less than one ton capacity.

"GARAGE, PUBLIC." A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor-driven or related vehicles.

\\GARAGE, STORAGE." An accessory building or part of a main building, other than a private garage, used for storage of automobiles or trucks, in which no occupation, business, or service may be conducted for remuneration.

\\GARBAGE." Animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

\\GRADE."

(1) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

(2) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalks at the center of all walls adjoining the street;

(3) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

(4) Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street. Where no sidewalk exists or where none of the walls adjoin a street line for the purposes of this chapter, the grade shall be established by the village administrator.

"GRADE, AVERAGE FINISHED." An average of the elevation of the finished surface of the ground adjoining the exterior walls of the building after final grading.

"HISTORIC STRUCTURE." Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

"HOME OCCUPATION." Any occupation customarily conducted entirely within a dwelling and carried on only by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

"INFESTATION." The presence of insects, rodents, vermin, or other pests on the premises, which constitute a health hazard.

"INDUSTRY." Embraces any operation involving the manufacture, production, processing or conversion of any material into a finished product, or product needing only a relatively small degree of further processing to result in its capability for sale as an article of use.

"JUNK." Any personal property which is or may be salvaged for reuse, resale, reduction or similar disposition or which is possessed, transported, owned, collected, accumulated, dismantled or assorted for the aforesaid purposes.

"JUNK YARD." Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building, and not including establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, salvaged machinery, and the processing of used, discarded or salvaged materials as part of manufacturing operations.

"LANDSCAPE BUFFER YARD." Consisting of a combination of lawn, trees, shrubs, grasses, perennials, and/or groundcovers to provide screening between lots or uses.

"LEAST DIMENSION." The least dimension of a lot is the least of the horizontal dimensions of such lot, and if two opposite sides of a lot are not parallel, such least dimensions shall be deemed to be the mean distance between them, but shall be not less than 60% of the longest of such distance.

"LOADING SPACE." An off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle which is loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access or egress.

"LOT." A parcel of land of at least sufficient size to meet minimum zoning requirements for use and area and to provide such yards and other open spaces as are herein required. A "LOT" shall have frontage on a public street or public alley.

"LOT, AREA." The computed area contained within the lot lines.

"LOT, CORNER." A lot abutting on two or more streets or alleys at their intersection, where the interior angle of intersection is not more than 135 degrees.

"LOT, DOUBLE FRONTAGE." A lot, other than a corner lot, having frontage on two streets or alleys.

"LOT, INTERIOR." A lot, other than a corner lot, having only one frontage on a street or alley.

"LOT LINE." The property lines between two established parcels of land or one (1) parcel and public property.

(1) The front lot line is the line separating the lot from a street. In the case of corner lots, the street lot line of least dimension shall be deemed to be the front lot line and the other street lot line, or lines, shall be deemed to be side lot lines, except in cases where deed restrictions or usage in effect specify another line as the front lot line. In the event such street lot lines are of equal dimensions, the front lot lines shall be as designated by the zoning board.

(2) The rear lot line is the lot line opposite and most distant from the front lot line.

(3) The side lot line is any lot line other than a front or rear line.

(4) A street lot line is the lot line separating the lot from an alley.

"LOT, THROUGH." A lot having frontage on two streets, as distinguished from a corner lot.

"LOT WIDTH." The horizontal distance of a lot measured along the building line between side lot lines.

"MAIN BUILDING OR MAIN USE." The principal building or use of a building or land on a lot.

"MANUFACTURED HOME." A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "MANUFACTURED HOME" does not include a "recreational vehicle".

"MANUFACTURED HOME PARK." Any tract of land upon which three or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building structure, vehicle or enclosure used or intended for use as a part of the facilities of such a park. A tract of land which is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots is not a manufactured home park, even though three or more manufactured homes are parked thereon if the roadways are dedicated to the local government authority.

"MINERAL." Any chemical compound occurring naturally as a product of inorganic processes.

"MOTOR VEHICLE." Any vehicle propelled or drawn by any power other than muscle including, but not limited to, automobiles, trucks, busses, trailers, motorcycles, watercraft, and like vehicles.

"NEW CONSTRUCTION." Structures for which the "Start Of construction" commenced on or after the initial effective date of the village's Flood Insurance Rate Map, and includes any subsequent improvements to such structures.

"NON-CONFORMING USE." Any building or land lawfully occupied by a use on the effective date of these regulations or any amendment or supplement thereto, which does not conform to the use regulations of the district in which it is situated.

"NUISANCE." That which is defined by the statutes of the State of Ohio and the Village of Navarre Code of Ordinances, and declared thereby to be a nuisance.

"NURSING FACILITY." A nursing facility for which a license has been issued as a "nursing home" by the State Department of Public Welfare, for the aged or infirmed, conducted within any abode, building, institutional residence, or home used for the reception and care, for a consideration, of three or more persons who, by reason of age or infirmities, are not capable of properly caring for themselves, as defined by R.C. § 3721.01 (A).

"OCCUPANT." Any person living and sleeping in a dwelling unit or having actual possession of the dwelling unit or any person who leases or rents a nonresidential building, structure or any portion thereof.

"OVERHANG." A portion of a building or structure protruding beyond a foundation wall or post and does not directly touch the grade below. Typically provides protection from the weather.

"OWNER." Any person who alone or jointly or severally with others, shall have legal or equitable title to any premises with or without the accompanying actual possession thereof, or shall have charge, care or control as owner or agent of the owner, or as executor, administrator, trustee, receiver or guardian of an estate, or as a mortgagee in possession.

"PARKING LOT." An off-street parking area.

"PARKING SPACE." An on or off-street space for the temporary parking of a vehicle.

"PUBLIC BUILDING." Any structure owned and operated by governmental agency or public school.

"PREMISES." Lands and all things of a permanent nature which may be appurtenant thereto.

"PUBLIC NOTICE." Public notice as used in conjunction with this ordinance shall mean and conform to the provisions of R.C. § 713.12.

"REAR OF A BUILDING, REAR LINE OF A BUILDING, REAR YARD LINE." Rear of a building, rear line of a building, rear yard line shall mean respectively that portion, building line or yard line opposite to the front line of a building, whether or not affording service access to the building.

"RECREATIONAL VEHICLE." A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"SCREENING." The obstruction of a view between lots by the use of fencing or plant material.

"SETBACK." Minimum perpendicular distance from a lot line or street right-of-way line to the point at which a structure or parking area may be built.

"SEXUALLY ORIENTED BUSINESS." See § 151.53 specified below as "Sexually Oriented Business".

"SIGN." Any structure, whether fixed or portable, or natural object, such as a tree, rock, bush, and the ground itself, or part thereof, or device attached thereto or painted or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization, or business or which shall display or include any letter, work, banner, flag, pennant, insignia, device, or representation used as, or which is in nature of an announcement, direction, or advertisement. For the purpose of these regulations, the word "SIGN" does not include the flag, pennant, badge, or insignia of any governmental agency or charitable, religious, educational, or similar organization. It shall include any billboard, ground sign, wall sign, roof sign, illuminated sign, projecting sign, portable sign, window sign, window graphics, temporary sign, marquee, awning, and canopy which includes any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any business, organization or person when the same is placed out of doors in view of the general public or when the same is placed indoors where the basic intent is for the view by the general public outside of the building.

"STANDARD OF PERFORMANCE." A set of standards (instructions) established by the manufacturer of industrial equipment concerning the proper operation of said manufacturing equipment. These standards being developed by the manufacturer in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases and other objectionable or dangerous elements generated by and inherent in or incidental to land uses affected by the industrial equipment.

"START OF CONSTRUCTION." The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of an off-site semi-assembled or prefabricated home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

"STORY." That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

"STORY, HALF." A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two thirds (2/3) of the floor area is finished off for use.

"STREET." A public way which provides the principal means of access to abutting property and which has a right-of-way width of not less than 50 feet. The word street shall include the words road, highway, and thoroughfare, and shall also include avenue, drive, circle, parkway, boulevard, and/or other similar term.

"STREET RIGHT-OF-WAY LINES." A dividing line between a lot, tract, or parcel of land and a contiguous street where the lot, tract, or parcel of land has been conveyed to the center of the street, the street right-of-way line then becomes the inside line of land reserved for street purposes, or if no right-of-way line is established the right-of-way shall be assumed to be 50% of the alley.

"STRUCTURE." Anything constructed or erected, the use of which requires more or less permanent location on the ground, including buildings, walls, fences, billboards, and poster panels.

"SURFACE MINING/STRIP MINING." All or any part of a process followed in the production of minerals or peat from the earth or from the surface of the land by surface excavation methods such as open pit mining, dredging, placering, or quarrying

"SUBSTANTIAL DAMAGE." Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT!" A reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the 'start of construction' of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include:

(1) Any project for improvement of a structure to correct violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

(2) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure"; or

(3) Any improvement to a structure which is considered new construction.

"SWIMMING POOL." A below-ground or above-ground structure made and supported of concrete, fiberglass, plastic, metal or combination thereof, used solely by the owner of the property for personal use with the water being treated accordingly for safe human use.

"TOPSOIL." Superficial soil capable of sustaining plant life indigenous to this area, ordinarily rich in organic matter or humus debris.

"TOPSOIL REMOVAL." Removal of topsoil from the premises.

"TOWER, TRANSMISSION OR RECEPTION." Any structure that extends more than 12 feet in height from the roof or any free-standing structure which contains any arrangement of wires, metal rods, or any other radiation element which transmits or receives radiation signals generated as telephone, telecommunications, radio, electrical, light or sound energy.

"TRADE." Such commercial activities as are entailed in the interchange of goods and materials but does not include operations dealing with the manufacture of goods and materials.

"TRAILER." A vehicle so designed as to permit the use and occupancy therein for habitation, whether resting on wheels, jacks, or other foundations, and used or so constructed as to permit its being used as a conveyance upon a public highway.

"TRANSLOAD FACILITY." A facility designed to transfer bulk or break-bulk shipments of dry or liquid goods between truck and rail.

"TREE-EVERGREEN." A tree which retains its foliage all year, and per this code, having a minimum mature height of 15 feet.

"TREE-ORNAMENTAL (EVERGREEN OR DECIDUOUS)." A smaller or specifically cultivated tree (i.e. shape or form), either evergreen or deciduous, meant for specimen, accent, or ornamental uses and per this code, having a maximum mature height under 15 feet.

"TREE-SHADE (DECIDUOUS)." A tree which loses its foliage during the winter or dry season, and per this code, having a minimum mature height of 15 feet.

"USE." Any purpose for which either land or building is arranged, designed, or intended or for which either land or building is or may be occupied or maintained.

"VARIANCE." An adjustment of this zoning code, permitting a "use" variance from this zoning code for a particular lot where a literal application of the zoning code would result in an undue hardship for the owner with respect to the lot in question; and permitting "area" variance from this zoning code for a particular lot where a literal application of the zoning code would result in "practical difficulties" for the owner with respect to the lot in question. The governing law for an area variance is contained in the Ohio Supreme Court decision *Duncan v. Middlefield(1986)*, Ohio St. 3rd 83.

"YARD." That space on a lot extending between a building and the lot line, open and unobstructed by any structure or portion of a structure from the ground upward, except for such fences, walls, and landscaping as are permitted by the provisions of this zoning code.

"YARD, FRONT." That space on a lot extending from the front of the building to the front lot line, or to the street right-of-way, as applicable, across the full width of the lot.

"YARD, REAR." That space on a lot extending from the rear wall of the building to the rear lot line across the full width of the lot.

"YARD, SIDE." The space on a lot extending between a side lot line and the nearest wall of the building from the front yard to the rear yard.

"ZONING MAP." The Zoning Map of the Village of Navarre, Ohio, together with all amendments subsequently adopted. (Ord. 895, passed 2-18-64; Am. Ord. 5-2014, passed 2-16-15; Am. Ord. 5-2016, passed 7-18-16; Am. Ord. 7-2016, passed 8-15-16)

§ 151.10 CLASSIFICATIONS.

For the purpose of this chapter the following classifications of districts and appropriate district symbols are hereby established in the village:

<u>Title</u>	<u>District Symbol</u>
Residential Districts.	
One-Family Residence	R-1
Two-Family Residence	R-2
-Multifamily Residence	R-3
Manufactured Home Park District	R-4
Business Districts.	
Retail Business	B-1
General Business	B-2
Industrial District.	
Downtown Industrial District	I-2
(Ord. 895, passed 2-18-64; Am. Ord. 11-2001, passed 10-1-01; Am. Ord. 5-2016, passed 7-18-16)	

§ 151.11 INTERPRETATION.

The classifications of districts set forth in § 151.10 shall not be construed as a listing of the most restricted to the least restricted districts, nor shall it be construed that a use permitted in a certain district shall be permitted by right in a district which is listed subsequently, unless that use is specifically permitted in the subsequent district. (Ord. 895, passed 2-18-64)

§ 151.12 CONFORMITY REQUIRED.

Buildings and land shall be used, the use of buildings and land shall be changed or extended, buildings shall be erected, and existing buildings or uses shall be altered, converted, enlarged, reconstructed, or moved only in conformity with this chapter.

(Ord. 895, passed 2-18-64) Penalty, see § 151.99

§ 151.13 ZONE MAP; RULES OF CONSTRUCTION.

(A) The districts established in § 151.10 are designated by symbols and the locations and boundaries of those districts are established on the map entitled "Official Zone Map of the Village of Navarre." Any explanatory material thereon and all amendments thereto shall be made a part of the chapter. The official zone map shall indicate the approval of the board of zoning appeals, and the adoption by council and shall be on file in the office of the zoning inspector.

(B) The district boundary lines of the zone map enclose an area of a designated district and generally follow the centerline of streets, alleys, lot lines, or their extensions; provided, however, that:

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

"YARD, FRONT." That space on a lot extending from the front of the building to the front lot line, or to the street right-of-way, as applicable, across the full width of the lot.

"YARD, REAR." That space on a lot extending from the rear wall of the building to the rear lot line across the full width of the lot.

"YARD, SIDE." The space on a lot extending between a side lot line and the nearest wall of the building from the front yard to the rear yard.

"ZONING MAP." The Zoning Map of the Village of Navarre, Ohio, together with all amendments subsequently adopted.  
(Ord. 895, passed 2-18-64; Am. Ord. 5-2014, passed 2-16-15)

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<u>Title</u>	<u>District Symbol</u>
Residential Districts.	
One-Family Residence	R-1
Two-Family Residence	R-2
Multifamily Residence	R-3
Manufactured Home Park District	R-4
Business Districts.	
Retail Business	B-1
General Business	B-2

Industrial District. I  
(Ord. 895, passed 2-18-64; Am. Ord. 11-2001, passed 10-1-01)

§ 151.11 INTERPRETATION.

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(Ord. 895, passed 2-18-64)

§ 151.12 CONFORMITY REQUIRED.

Buildings and land shall be used, the use of buildings and land shall be changed or extended, buildings shall be erected, and existing buildings or uses shall be altered, converted, enlarged, reconstructed, or moved only in conformity with this chapter.

(Ord. 895, passed 2-18-64) Penalty, see § 151.99

§ 151.13 ZONE MAP; RULES OF CONSTRUCTION.

(A) The districts established in § 151.10 are designated by symbols and the locations and boundaries of those districts are established on the map entitled "Official Zone Map of the Village of Navarre." Any explanatory material thereon and all amendments thereto shall be made a part of the chapter. The official zone map shall indicate the approval of the board of zoning appeals, and the adoption by council and shall be on file in the office of the zoning inspector.

(B) The district boundary lines of the zone map enclose an area of a designated district and generally follow the centerline of streets, alleys, lot lines, or their extensions; provided, however, that:

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

(2) Boundaries indicated as approximately following the centerline of streams and canals shall be construed to follow those centerlines.

(3) Boundaries which do not coincide with any of the aforesaid lines shall be of such dimensions as are shown on the zone map.

(4) In locations where the zoning inspector cannot readily determine the district line in accordance with the above rules, the board of zoning appeals shall interpret the district boundaries.  
(Ord. 895, passed 2-18-64)

§ 151.14 OFF-STREET PARKING AND LOADING.

(A) Parking facilities. Accessory off-street parking facilities shall be determined in conformity with the schedule for the various buildings and uses listed. Facilities shall be provided for the entire building or use and in accordance with the regulations contained in this chapter:

(1) Whenever a building is constructed or a new use established.

(2) Whenever the use of an existing building is changed to a use requiring more parking facilities.

(3) Whenever an existing building is altered and there is an increase in the number of dwelling units, seating capacity, or floor area of the building.

(B) Size of parking space. Each space shall be not less than nine feet wide and 180 square feet in area, exclusive of drives and turning space.

(C) Schedule of required off-street parking spaces.

<u>Building or Use</u>	<u>Parking Space Required</u>
<u>Public and Semipublic</u>	
The municipal building, used for an administrative function	One space for each 200 square feet of office floor area plus one space for each four seats in an assembly room.
Churches	One space for each four seats in the principal assembly room.
<u>Welfare</u>	
Homes for the aging	One space for each four guest rooms or apartment units plus one space for each employee.

Residential

One, two, and three-family dwellings	One space per dwelling unit.
Rooming houses and rented rooms	One space per roomer plus one space for the dwelling unit of the resident family.
Multifamily dwellings	One space per dwelling unit.

Retail Business

Medical and dental offices	Five spaces per doctor or dentist.
Other offices	One space per 200 square feet of ground floor area; one space per 350 square feet of floor area of upper floors.
Club, lodge, or other assembly hall	One space per four seats in building.
Mortuary	One space per 30 square feet of assembly rooms or one space for each four seats, whichever requires the greater number.
Retail stores, banks, and service establishments	One space per 200 square feet of ground floor area; one space per 350 square feet of floor area of upper floors.
Eating places, bars and taverns	One space per 50 square feet of floor area or one space per two seats, whichever requires the greater number of spaces.

General Business and Industrial

All uses permitted	One space per two employees on the two largest successive shifts.
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(D) Separate or combined use of facilities. A building or group of buildings containing two or more uses, operating normally during the same hours and having different off-street parking requirements, shall provide spaces for not less than the sum of the spaces required for each use.

(E) Parking facilities for residences. Accessory parking facilities shall be located on the same lot as the dwelling served. Driveways shall not be used within the required front yard for off-street parking.

(F) Off-street loading facilities. Loading or unloading facilities shall be provided for all business and industrial buildings hereafter erected or altered for such use. Space required and allocated for off-street parking shall not be allocated or used to satisfy the space requirements for off-street loading.

(G) Location of loading spaces. All required loading spaces shall be located on the same lot as the use served and arranged so that a public street or sidewalk will not be occupied during the loading or unloading process. They shall be located not less than 50 feet from a residential district.

(H) size of loading space. A required off-street loading space shall be at least 12 feet wide by at least 25 feet long for buildings less than 15,000 square feet of gross floor area and each required loading space for a building of 15,000 square feet or more of floor area shall be not less than 12 feet wide by 50 feet long, exclusive of aisle and maneuvering space.

(I) Schedule of requirements for off-street loading spaces.

<u>Building or Use</u>	<u>Gross Floor Area of Building in Square Feet</u>	<u>Required Number of Spaces</u>
Retail stores, all types	5,000 to 10,000	1
	10,000 to 40,000	2
All general business and industrial establishments	Up to 40,000	1
	40,000 to 100,000	2

(J) Improvements to parking and loading areas. All parking and loading areas and access driveways shall have an asphalt or other similar hard surface approved by the village engineer. Parking areas shall be graded to provide for drainage so that adjacent properties will not be injured and so that water will not drain across a public sidewalk. Appropriate bumper guards and markings shall be provided in order to define parking spaces or the limits of paved areas and to prevent vehicles from projecting into required yards. The zoning inspector may require landscape features or a fence between a parking or loading area and the side or rear lot line of a residential district. Where a business or industrial parking or loading area directly adjoins a residential district, the fencing or landscape features shall be at least six feet in height. When the fence or landscape features adequately screen the accessory use from the residential district, then no side or rear yards are required.

(K) Illumination. If parking and loading areas are illuminated, the illumination shall be so designed and located that light sources are shielded from adjoining residential districts and streets; illumination shall not be of excessive brightness or cause a glare hazardous to pedestrians or drivers.

(Ord. 895, passed 2-18-64) Penalty, see § 151.99

§ 151.15 SIGNS.

(A) Conformity required. Signs shall be designed, erected, altered, reconstructed, moved, or maintained in whole or in part in conformity with the provisions of this section.

(B) Definition. As used in this section, "SIGN" means a structure or any part thereof, or any device attached to or painted directly or indirectly on a structure or a parcel of land, which displays or includes any letter, model, banner, pennant, insignia, devices or other presentation to direct attention to a person, institution, organization, activity, place, object, product, or business.

(C) Classification of signs. For the purposes of this chapter, signs shall be classified as being either accessory to the main building or use of the land or a main use of the land in the district in which such signs are located.

(1) As accessory uses. Signs as an accessory use are located on the same premises as the main use of that premises, directing attention to a business commodity or service sold or offered on the premises, and are permitted as accessory uses in the district in which they are located, subject to such regulations as are herein provided.

(2) As main uses. Signs as a main use function to attract attention to a business, commodity, or service sold or offered in locations other than on the premises on which they are located and shall be classified as a main use and permitted in the business and industrial districts, subject to such regulations as are herein provided.

(D) Permitted signs, accessory or main use. Signs shall be permitted in each use district and regulated as to type, size, and location in conformity with the following:



(E) Unless otherwise stated, all maximum size of sign use numbers in the table accompanying this section are square feet.

(F) General sign locations. Signs and their supporting structures shall not project over public ways nor shall they extend over the maximum height requirement for the district in which they are located. Signs shall not be erected so as to obstruct street sight lines, traffic control lights, signs at street intersections, street sight lines, or signals at railroad crossings. Signs visible from the sight lines along a street shall not contain an arrow or words such as "stop," "go," "slow," and the like, or otherwise resemble highway traffic signs.

(G) Illumination of signs. Light sources to illuminate signs shall be reflected and shielded and shall not be of excessive brightness, cause glare hazardous to pedestrians or automobile drivers, or be objectionable to adjacent residential districts. The colors red or green, either in direct illumination or reflection, shall not be used where they may interfere with the sight lines of a traffic signal. (Ord. 895, passed 2-18-64; Am. Ord. 5-2016, passed 7-18-16) Penalty, see § 151.99

§ 151.16 NONCONFORMING USE, STRUCTURE, OR LAND.

(A) Existing uses, buildings, or structures. Wherever, on the effective date of this chapter (February 18, 1964), a lawful use, building, or structure exists that is no longer permissible under the terms of this chapter as enacted and amended, that land, building, or structure may be continued, so long as it remains otherwise lawful, subject to the following provisions.

(B) Enlargement, extension, construction, and substitution.

(1) A nonconforming building, structure, or land use existing at the time of the effective date of this chapter (February 18, 1964) may be altered or enlarged so as to extend that nonconforming use, not to exceed an additional 40%, upon approval of the board of zoning appeals, after a public hearing. Such extension of usage shall be in conformity with all other requirements of this chapter.

(2) Any building or structure existing as a nonconforming use at the time of the effective date of this chapter (February 18, 1964) which is not more than 30% destroyed by fire, may be reconstructed and restored, providing the same is done within two years from the date of destruction.

(C) Discontinuance. If any nonconforming use or use of land or a structure is voluntarily discontinued for a continuous period of two years, any future use of that land or structure shall be in conformity with the use and other regulations specified by this chapter for the district in which the use or use of the land or structure is located.

(D) Change of use.

(1) If no structural alterations are made, any nonconforming use of a structure and land may be changed to another nonconforming use, provided that the board of zoning appeals finds that the use is more appropriate to the district than the existing nonconforming use.

Thereafter, it shall not be changed back to the former nonconforming use.

(2) Any structure or land which is changed to a permitted use in the district in which it is located shall thereafter conform to the regulations for that district and the nonconforming use may not thereafter be resumed.

(E). Maintenance and repair. A nonconforming structure may continue to be used, maintained, and repaired. However, no structural parts shall be replaced except when the law requires that the structure be restored to a safe condition or made to conform to the regulations of the district.

(Ord. 895, passed 2-18-64; Am. Ord. 22-68, passed 1-21-68) Penalty, see § 151.99

§ 151.25 PERMITTED USES.

In residential districts, land shall be used and buildings shall be designed, erected, altered, moved, or maintained only for the purposes set forth in the following schedule of permitted main and accessory buildings and uses, and only in accordance with the regulations contained in this subchapter:

(A) R-1, One-Family Residence District.

<u>Main Building or Use</u>	<u>Accessory Building or Use</u>
(1) One-family dwellings.	(1) Private garage or parking space for automobile.
(2) Public schools, parks, playgrounds, library and other public buildings.	(2) Fences, walls, hedges, shrubs, and trees.
(3) Churches, cemeteries, nursery and private schools.	(3) Home professional office and home occupations.
(4) Nursing facilities.	(4) Renting of rooms.
	(5) Signs related thereto.
	(6) Bed and breakfast in association with a permitted dwelling.

(B) R-2, Two-Family Residence District.

<u>Main Building or Use</u>	<u>Accessory Building or Use</u>
(1) One-family dwellings.	(1) Buildings or uses permitted in the R-1 District.
(2) Two-family dwellings.	
(3) Uses permitted in the R-1 District.	

(C) R-3, Multifamily Residence District.

<u>Main Building or Use</u>	<u>Accessory Building or Use</u>
(1) One-family dwellings.	(1) Buildings or uses permitted in the R-2 District.
(2) Two-family dwellings.	
(3) Multifamily dwellings.	
(4) Uses permitted in the R-2 District.	

## (D) Manufactured Home Park District.

Purpose: This district is intended to provide for the development of well-planned manufactured home parks.

Uses: Within an R-4 Manufactured Home Park District, no building structure, or premises shall be used, arranged to be used, or designed to be used except for one or more of the following uses:

## (1) Permitted Uses.

(a) Manufactured Home Park, as licensed and regulated by the Department of Health, and subject further to the requirements of these regulations.

(b) Accessory uses and structures incidental to the principal use except for the management and maintenance of a Manufactured Home Park.

(c) Signed as permitted and regulated in the provisions of supplementary regulations.

(d) Buildings or uses as permitted in the R-3 District.

## (2) Lot Requirements.

## (a) Minimum area for:

Manufactured Home Park - 12 acres

Lot in Manufactured Home Park - 5,000 square feet

## (b) Minimum lot width and lot frontage.

Manufactured Home Park - 200 feet

Lot in Manufactured Home Park - **50** feet

## (3) Yard Requirements for Manufactured Home Park.

(a) Minimum front yard depth - 50 feet

(b) Minimum rear yard depth - 25 feet

(c) Minimum side yard width - 10 feet

Individual manufactured homes in parks shall meet the requirements of Chapter 3733 of the Ohio Revised Code.

## (4) Additional requirements.

(a) The applicant shall have written permission from the state and county health departments approving the site and plans for the proposed Manufactured Home Park.

(b) Each manufactured home unit shall have a minimum of 500 square feet of living space per family.

(c) Each manufactured home lot shall be served by underground utilities.

(d) It shall provide water to each lot through connection with the Village water system with a separate connection to each lot.

(e) It shall provide sewage disposal through the Village sewage system with a separate connection to each lot.

(f) Each home lot shall abut on a paved street within the park and each street shall have a clear, unobstructed paved width to accommodate the contemplated traffic and parking load in accordance with the type of street as follows:

1. All entrance and exit two-way streets shall have a minimum paved width of 36 feet with a 50 foot right-of-way exclusive to any median strip.

2. Any one-way entrance and exit streets and all collector or cul-de-sac streets shall have a minimum paved width of 20 feet, with no parking permitted. Cul-de-sacs shall have a minimum 25 foot radius, paved or from curb to curb.

3. Parking may be permitted on both sides of streets with a minimum paved width of 26 feet and street with a minimum paved width of 30 feet which have been designated as one-way.

4. Parking may be permitted on one side of two-way streets having a minimum paved width of 20 feet which have subsequently been designated as one-way, except entrance and exit streets.

5. If flexible paving is used, it shall consist of a minimum of three inches of asphalt placed on top of not less than six inches of properly prepared aggregate base. If rigid pavement is used it shall consist of a minimum of six inches of plain Portland cement concrete. Any alternative pavements approved by the Planning Commission shall have a strength equal to the above. In either case the subgrade shall be well drained, well compacted and smoothly graded.

(g) A useable recreation area shall be located in every park with its size being not less than 20% of the total area of the park.

(h) All homes shall have tiedowns and skirting. Such tiedowns and skirting shall be in place within 30 days after the placing of the unit.

(I) All parks must provide patios, walkways, and pier runners or pads to set homes on as required by the Ohio Revised Code.

(j) Boats and recreational vehicles shall not be stored on the individual home lots. An area for such storage shall be designated when the park plan is submitted.

(k) The manufactured home park shall be effectively screened on all sides by walls, fences, or plantings except where the area is not adjacent to other residential areas. Walls and fences shall be a minimum of six feet in height with no advertising thereon. In lieu of such wall or fence, a strip of land not less than ten feet in width and planted and maintained with an evergreen hedge or dense planting of evergreen shrubs not less than ten feet in height when fully grown may be substituted.

(l) Not more than one freestanding auxiliary building may be placed on any home lot. Any such building shall be at least five feet from side and rear lot lines. A separate permit is required for each auxiliary building put in the park. Application to be signed by the owner of the park and owner of the manufactured home on said lot.

(m) Parks shall have easily readable street and lot signs.

(n) Manufactured Home Park applications, in addition to architectural drawings, shall include at least the following:

1. Flood plain information (if applicable);
2. Proof of insurability of the park and of each home, based on flood plain information;
3. Fire hydrant location;
4. Area lighting plan;
5. Specifications for support and anchorage of mobile homes, including foundations.

(o) Each manufactured home park operator shall provide parking spaces equal to two spaces per manufactured home plus one space for every two manufactured homes. All parking spaces shall be suitably paved. Areas shall be provided throughout the park for parking of vehicles.

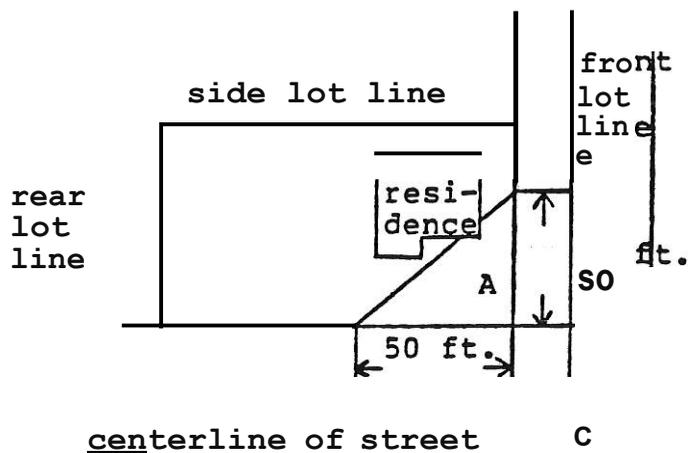
(Ord. 895, passed 1-18-64; Am. Ord. 8-1976, passed 7-20-76; Am. Ord. 11-2001, passed 10-1-01; Am. Ord. 7-2016, passed 8-15-16) Penalty, See § 151.99

§ 151.26 PERMITTED ACCESSORY BUILDINGS AND USES.

(A) Private garages or parking space for automobiles. Private garages and parking spaces for automobiles are permitted, except that the rebuilding, overhauling, or dismantling of an automobile or the storage of motor or body parts in an open yard is prohibited. Further, only one truck may be stored on a lot in any residence district and that truck shall be stored in a garage and used solely by the occupant of the dwelling.

(B) Visibility at intersections in residential districts. On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2-1/2 and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of the corner lots, and a line joining points along those lines 50 feet from the point of the intersection.

ZONING REQUIREMENTS FOR VISIBILITY FOR CORNER LOTS  
IN RESIDENTIAL DISTRICTS



A - The area within vision should not be impeded between 2-1/2 and 10 feet above centerline grade intersection.

C - Point of centerline grade intersection.



(C) Fences, walls, and hedges. Fences, walls, and hedges may be permitted in any required yard or along the edge of any yard, except that no fence, wall, or hedge along the sides or front edge of any front yard shall be over 2-1/2 feet in height.

(D) Home professional offices. An office is permitted in residential districts in the home of a person practicing the profession of accountant, architect, artist, engineer, lawyer, musician, physician, or other profession of like nature, provided that:

(1) It does not change the residential character of the dwelling exterior, other than as permitted by § 151.15, the sign ordinance.

(2) It does not utilize equipment which will create any electrical disturbance beyond the premises.

(3) It does not attract any greater number of automobiles than can be parked on the premises, consistent with all parking restrictions applicable to a residential district as set forth in these ordinances and municipal regulations.

(E) Home occupations. Home occupations are permitted in residential districts, including such homecrafts as dressmaking, millinery, weaving, or office space for businesses or services such as real estate, selling, or taking orders for merchandise or contracting work, provided that:

(1) No mechanical equipment is used which will create any dust, noise, or odor, glare, vibration, or electrical disturbance beyond the lot.

(2) The residential character of the dwelling exterior or accessory building is not changed, other than as permitted by § 151.15, the sign ordinance.

(3) The occupation does not attract any greater number of automobiles than can be parked on the premises, consistent with all parking restrictions applicable to a residential district as set forth in these ordinances and municipal regulations.

(F) Renting of rooms. The rental of rooms from a resident family of not more than two rooms to not more than two persons is permitted provided that the exterior character of the dwelling is not changed and that off-street parking is provided as regulated in § 151.14.

(G) Signs. Nameplates and bulletin boards are permitted as regulated by § 151.15(D).  
(Ord. 895, passed 2-18-64; Am. Ord. 6-2016, passed 8-15-16) Penalty, see § 151.99

§ 151.27 TEMPORARY LIVING SPACE.

Temporary living space, or those spaces used until the main dwelling is completed, including basements, garages, or nonstructures such as house trailers, shall not be permitted in any residential district.

(Ord. 895, passed 2-18-64) Penalty see § 151.99

§ 151.28 LOT, HEIGHT REGULATIONS.

Land shall be used in accordance with the lot area regulations and buildings shall be designed, erected, altered, moved, or maintained in accordance with the regulations set forth in the following schedule. All minimum side yard dimensions are the distance between a lot boundary and a building:

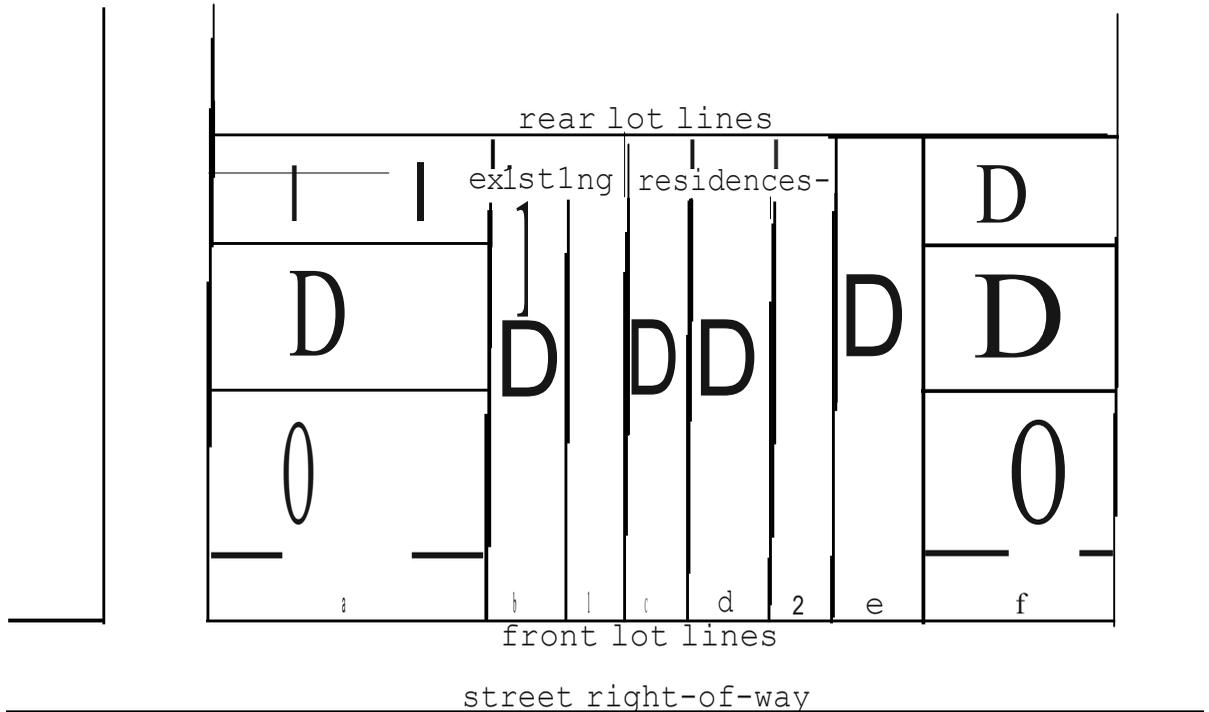
District Symbols	Dwelling Type	MINIMUM LOT SIZE AND WIDTH		MINIMUM YARD DIMENSIONS SIDE YARD				
		Lot area per dwelling unit (square feet)	Lot width (feet)	Front yard (feet)	Minimum one side yard	Total both side yards	Rear yard (feet)	Maximum height (feet)
R-1	One-family	9,000 (60 x 150)	60	40	5	15	50	35
R-2	One-family	7,500 (60 x 125)	60	30	5	15	40	35
	Two-family	6,000 (80 x 150)	80	30	10	20	40	35
R-3	One-family	6,000 (50 x 120)	50	25	5	15	30	35
	Two-family	5,000 (80 x 125)	80	20	10	20	25	35
	Multi-family	3,000	100	20	10	20	25	35

(Ord. 895, passed 2-18-64; Am. Ord. 5-2016, passed 7-18-16)

§ 151.29 GENERAL YARD REGULATIONS.

(A) Minimum distance between residential dwellings. The minimum distance between two adjoining dwellings shall be not less than the total of both side yards required in that district.

(B) Front yards of built-up blocks. Where more than 50% of the street frontage between two successive intersecting streets is occupied, the average of the front yards of the existing lots fronting on that street shall be the minimum front yard requirement.



The average yard setback for lots one and two equals the sum of the existing front yard setback for lots a, b, c, d, e and f divided by the number of lots (**six** in this case).

(C) Application. This method of computation applies to all use districts.

(D) Yards of corner lots. The width of a side yard on the street side of a corner lot shall be not less than 20 feet in all districts and the interior side yard shall be not less than the minimum required for one side yard for that district. The width of a corner lot shall be increased to conform to the required side yards.

(E) Accessory buildings or uses. Automobile garages, accessory off-street parking, and driveways may be located in the required side or rear yards; however, such accessory buildings or uses shall be not less than five feet from the side or rear lot line.

(Ord. 895, passed 2-18-64) Penalty, see § 151.99

§ 151.30 PRIVATE SWIMMING POOLS.

A private swimming pool shall be any pool, pond, lake, or open tank where swimming is normally permitted. Private swimming pools may be operated without charge and not for profit for the exclusive use of a household or tenants and guests in a residential district, and must comply with the following conditions and requirements:

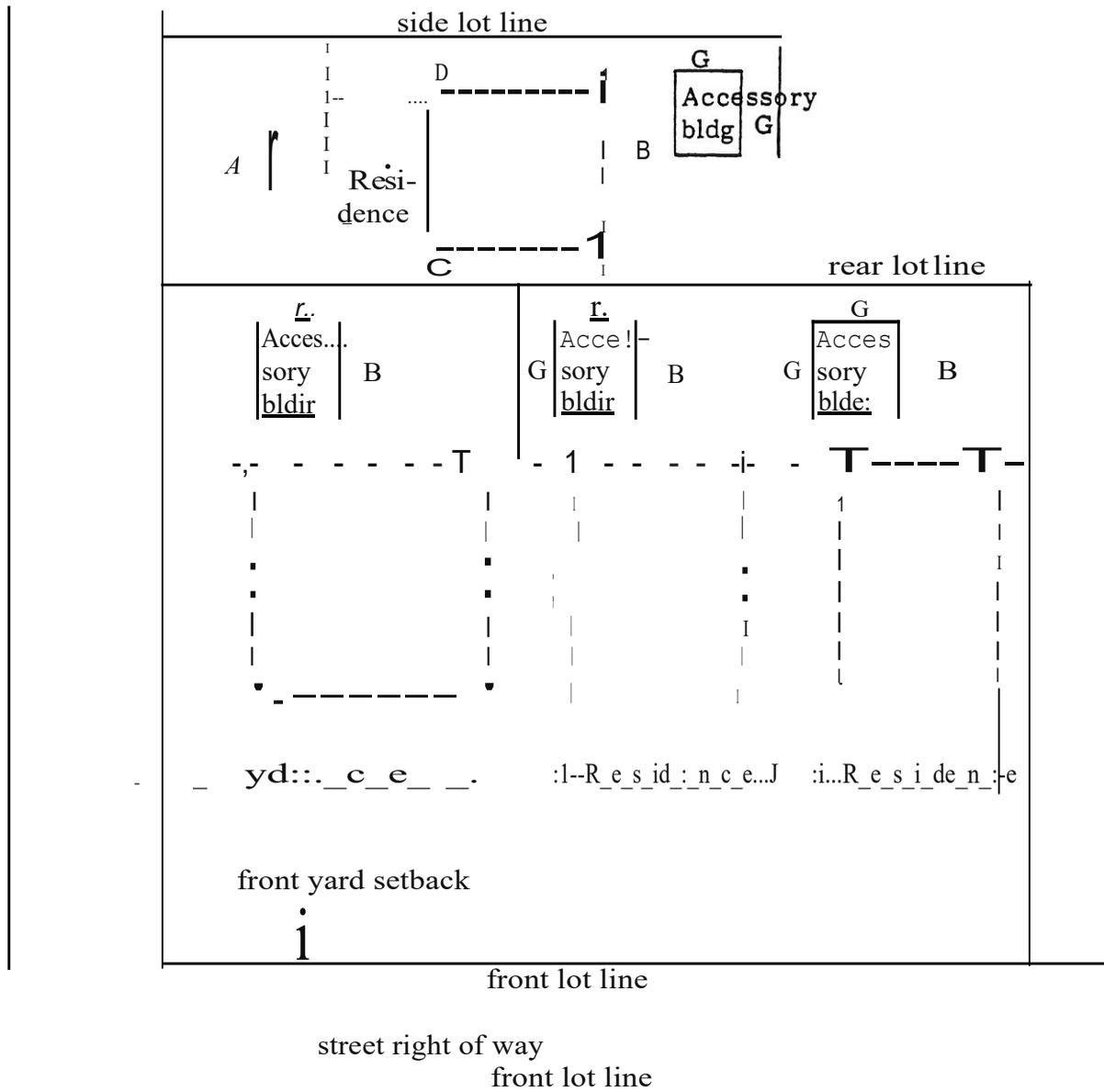
(A) The pool shall be located on the same lot or lots as the building or buildings served.

(B) The swimming pool, or the entire property on which it is located, shall be walled or fenced so as to prevent uncontrolled access by children from the street or from adjacent properties. The fence or wall shall be not less than five feet in height and maintained in good condition, with a gate and lock. However, the provisions of this division shall not authorize a wall or fence which would be in violation of § 151.26 (B).

(C) The pool shall be located in the rear yard. It may not be located closer than ten feet from any lot line of the property on which it is located and shall be at least ten feet from the rear of the main building.

(Ord. 24-71, passed 9-20-71) Penalty, see § 151.99

§ 151.31 DISTRICT REGULATIONS ILLUSTRATED.



KEY FOR SKETCH

- A - The front yard
- B - The rear yard
- C - The minimum side yard
- D - The other side yard
- E - Minimum distance between dwellings, C plus D
- F - Side yard for corner lot on side street
- G - Accessory building yards

Note: Fences, walls, and hedges are permitted in all yards of the lot; but in the front yard the fences, walls, and hedges shall be not over 2½ feet in height.

(Ord. 895, passed 2-18-64)

§ 151.40 PERMITTED USES.

In the business districts, land shall be used and buildings shall be designed, erected, altered, moved, or maintained only for the purposes set forth in the following schedule of permitted main and accessory buildings and uses and only in accordance with the regulations contained in this subchapter.

(A) B-1, Retail Business District.

<u>Main Building or Use</u>	<u>Accessory Building or Use</u>
(1) Offices, including professional, financial, public utility, and telephone exchange.	(1) Storage of materials and products within enclosed buildings or open yards and other processes clearly incidental to the main use.
(2) Public buildings, including police and fire stations, the village hall, libraries, and post offices.	(2) Maintenance facilities.
(3) Clubs, lodges and undertakers.	(3) Signs, as permitted and regulated in § 151.15.
(4) Retail stores selling products and services to the following limited extent:	(4) Off-street parking and loading, as permitted and regulated in § 151.14.
(a) Baked goods, confectionery, meats, groceries, vegetables, dairy products, and packaged beverages	(5) Fencing and screening, as regulated in § 151.14 (J) •
(b) The service and consumption of food.	
(c) Soft drinks and all beverages	
(d) Household furniture and appliances, tools, paints, hardware, and garden supplies.	
(e) Drugs, gifts, stationery, jewelry, books, periodicals, and records.	
(f) Wearing apparel, athletic equipment, toys, hobby supplies, bicycles, and pet supplies.	
(5) Retail establishments offering services limited to the following extent:	
(a) Personal services such as barber and beauty shops.	

<u>Main Building or Use</u>	<u>Accessory Building or Use</u>
<ul style="list-style-type: none"> <li>(b) Laundromats, tailors, and pressing and dry cleaning shops.</li> <li>(c) Repair services limited to shoes, radios, television sets, and household appliances.</li> <li>(d) Photographic studios and photographic developing.</li> </ul>	
<ul style="list-style-type: none"> <li>(6) Retail sales and service in open yards to the following extent:           <ul style="list-style-type: none"> <li>(a) Automotive service stations, limited to the sale of motor fuel and motor oil; grease lubricants and similar minor accessories and minor servicing and repairs are permitted only in an enclosed building.</li> <li>(b) Automotive sales, provided that all vehicles, advertising, and structures are located in accordance with the required front-yard setback.</li> </ul> </li> <li>(7) Signs, as permitted and regulated in § 151.15.           <ul style="list-style-type: none"> <li>(B) B-2, General Business District.</li> </ul> </li> </ul>	
<u>Main Building or Use</u>	<u>Accessory Building or Use</u>
<ul style="list-style-type: none"> <li>(1) Buildings or uses permitted in the B-1 District.</li> <li>(2) Sales, service, repair, and storage establishments as follows, provided that any use in open yards, advertising, and structures are located in accordance with the required front-yard setback:           <ul style="list-style-type: none"> <li>(a) Automobile and truck sales, service, repair and storage.</li> <li>(b) Farm equipment sales, service, repair, and storage.</li> <li>(c) Warehouses.</li> </ul> </li> </ul>	Buildings or uses permitted in the B-1 District.

Main Building or Use

Accessory Building or Use

- (3) Shops and offices of general contractors.
- (4) Cleaning, dry cleaning, and carpet cleaning establishments.
- (5) Amusement and recreation uses, such as bowling alleys, dance halls, and other such establishments, provided they are conducted within a building sufficiently insulated to minimize noise.
- (6) Signs, as permitted and regulated in § 151.15.

(Ord. 895, passed 2-18-64) Penalty, see § 151.99

§ 151.41 LOT, HEIGHT REGULATIONS.

(A) Lot area and width for the foregoing permitted uses shall be sufficient to provide space for the main and accessory buildings and to provide such space as is necessary to satisfy the yard and off-street parking and loading requirements of this chapter.

(B) Land shall be used and buildings shall be designed, erected, altered, moved, or maintained in accordance with the regulations set forth in the following schedule:

District Symbols and Titles	Permitted Building or use	Minimum Yard Dimensions (Feet)			Maximum Height (feet)
		Front Yard	Side Yard	Rear Yard	
B-1 Retail Business	Main building or use	20	20	20	40
B-2 General Business	Main building or use	30	30	30	40

(Ord. 895, passed 2-18-64)

§ 151.42 GENERAL YARD REGULATIONS.

(A) Where a main or accessory business building or use adjoins other business buildings in a business district, side and rear yards are not required.

(B) In an established business district, where more than 50% of

the frontage between two successive intersecting streets is occupied, the average of the front yards of the existing lots fronting on that street shall be the minimum front yard requirement.

(C) Where an accessory business building over eight feet in height directly adjoins a residential district, side or rear yards shall be required equal to one-half of the height of that accessory building.

(D) Where an accessory business use directly adjoins a residential district, side or rear yards shall be required which are equal to those required for the main use. If adequate screening is provided in accordance with § 151.14(J), no side or rear yards shall be required.

(Ord. 895, passed 2-18-64) Penalty, see § 151.99

#### § 151.50 INDUSTRIAL ZONING.

(A) Purpose. The district provides for industrial uses in the fields or repair storage manufacturing, processing wholesale and distribution. Industrial zoning within the village is divided into two zones: I-1, and I-2. I-1, further known as industrial, a general industrial zone; and I-2, further known as downtown industrial, a general industrial zone.

(B) Severability clause. If any section, sub-section, paragraph or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, sub-sections, paragraphs, and clauses shall not be affected.

(C) Conflicting ordinances repealed. All ordinances or parts of ordinances in conflict with the provisions of this chapter are hereby repealed.

(Ord. 5-2014, passed 2-16-15)

#### § 151.51 I-1 INDUSTRIAL DISTRICT.

General industrial district use regulations. Buildings and land shall be used, and buildings shall be designed, erected, altered, moved and maintained, in whole or in part, only for the purposes set forth in the following schedule of permitted main and accessory buildings and uses, and only in accordance with the regulations contained in this subchapter.

(A) Permitted uses. In the industrial district, land shall be used and buildings shall be designed, erected, altered, moved, or maintained only for the purposes set forth in the following schedule of permitted main and accessory buildings and uses, and only in accordance with the regulations contained in this subchapter.

(1) Main building use.

(a) Services, sales, and storage establishments limited to:

1. Those buildings or uses permitted in the B-2 district in § 151.40(B) (2), (3), and

(4). S-26 January 2016

2. Railroad yards, transload facilities and storage yards for materials and containers transported by rail.

3. Printing, publishing, and engraving.

4. Truck terminals, including office, warehouse and storage.

5. Trade/contractor's facility including carpenter, cabinetry, upholstering, sheet metal, plumbing, heating, roofing, air conditioning, sign painting, landscaping, general contracting, and other similar facilities.

6. Products from previously and elsewhere prepared materials (i.e. cardboard, cellophane, clay, cloth, fibers, glass, leather, metals, paper, plastic, precious or semi-precious metals and/or stones, rubber, wax or wood).

7. Distributor warehouse and wholesale business establishments.

8. Mini-storage and warehouse.

9. Contractor equipment storage yard or rental equipment.

(b) Manufacturing, compounding, processing, cleaning, servicing, testing, storage and repair activities.

1. Clocks, cutlery, and kitchen utensils.

2. Electric equipment such as fans, irons, lighting fixtures, motors, radios, television sets, toasters, and other household appliances.

3. Hand tools and builders' hardware.

4. Engineering, medical, and scientific instruments and electronic and mechanical control and communication devices and equipment.

5. Sporting goods and athletic equipment.

6. Paper and allied products.

7. Musical instruments, toys, novelties, and other similar small rubber, plastic or metal products.

8. Preparation and processing of food and drink products, cosmetics, pharmaceuticals, and toiletries (except when such operation would create a hazard or common-law nuisance beyond the confines of the building). Slaughter houses or processes which manufacture sauerkraut, vinegar, yeast and rendering or refining of fats or oils shall not be permitted.

9. Plastics ~~manufacturing~~ molding and shaping or other chemical processing and packaging.

10. Fabricated metals and machine shops, including machine shop operations for stamping, tool and die, gauge, blacksmith operations, welding or similar types of operations.

11. Fabrication of furniture and cabinets.

12. Vehicle assembly and major repair.

13. Natural gas and natural gas by-products.

14. Pottery, figurines or other ceramic products.

15. Electric and neon signs, billboards and other such structures.

16. Rag, carpet or rug cleaning.

17. Steel and/or specialty metal production.

(c) Research and exploration.

1. Experimental testing and research facilities provided no testing or experimentation creates a hazard beyond the confines of the building. There shall be no processing handling, storage, or dispensing of nuclear or radioactive waste.

2. Mainstream and alternative energy testing, research, storage and offices to include, solar, oil and gas, geothermal, compressed natural gas, biofuel, liquefied natural gas, hydrogen and fuel cells provided no practices create a hazard beyond the confines of the building

(d) Community facilities

1. College, University Technical, Business, or Trade school-public and private.

2. Public service safety, maintenance and storage facilities.

(e) Signs, as permitted and regulated in § 151.15.

(2) Accessory building or use.

(a) Storage of materials and products within enclosed buildings or in open yards and other processes clearly incidental to the main use.

(b) Maintenance facilities.

(c) Storage garages.

(d) Off-street parking and loading areas, as provided for in § 151.14.

(e) Sign regulations. Signs in any industrial district shall be designed, erected, altered, moved or maintained, in whole or in part, in accordance with the regulations set forth in § 151.15.

(f) Fencing and screening, as regulated in § 151.14 (J) • (Ord. 895, passed 2-18-64) Penalty, see § 151.99.

(B) Lot and height regulations.

(1) Lot area and lot width for the foregoing permitted uses shall be sufficient to provide space for the main and accessory buildings and to provide such space as is necessary to satisfy the yard and off-street parking and loading requirements of this chapter. The minimum lot frontage shall be 50 feet.

(2) Main and accessory use buildings shall be designed, erected, altered, moved, or maintained in accordance with the regulations set forth in the following schedule:

	Maximum Building Height
Adjacent to a Non-Residential District	60'
Adjacent to a Residential District	40'
Adjacent to a Residential District if the buildings or structures are greater than 1,000' from the Residential District	60'

(3) Building setbacks for main and accessory use structures shall be maintained in accordance with the regulations set forth in the following schedule:

	Front Yard	Side Yard	Rear Yard
Adjacent to a Non-Residential District	65'	45'	45'
Adjacent to a Residential District	200'	200'	200'

(C) General landscape yard buffer and parking regulations.

(1) Landscape buffer yard for industrial uses:

	Landscape Buffer		
	Front Yard	Side Yard	Rear Yard
I-1 Adjacent to a Non-Residential District	15'	15'	15'
I-1 Adjacent to a Residential District	35'	35'	35'

(2) Plant material for landscape buffers yards shall belaid out as follows:

(a) Shade trees shall be spaced a minimum of ten feet on center and a maximum of 40 feet on center. An irregular spacing and grouping of plant material shall be utilized to create a more natural than man-made screen. Trees must be spaced out the entire length of the buffer yard area and not congregated in one area.

(b) Evergreen trees shall be spaced a minimum of eight feet on center and a maximum of 20 feet on center. An irregular spacing and grouping of plant material shall be utilized to create a more natural than man-made screen. Trees must be spaced out the entire length of the buffer yard area and not congregated in one area.

(c) Buffer lawn (side and rear yards only). A 'no-mow' lawn mix may be utilized, and is recommended, for a natural appearance and reduced maintenance activities.

(3) Front landscape buffer yard requirements.

(a) Adjacent to a non-residential district five trees and 20 shrubs per 100 feet of frontage.

(b) Adjacent to a residential district: eight trees and 30 shrubs per 100 feet of frontage.

(c) In the side and rear yard buffers, a mix of 30% evergreen trees and 70% deciduous shade trees shall be utilized.

(4) Parking setbacks shall be designed as follows:

	Front Yard	Side Yard	Rear Yard
I-1 Adjacent to a Non-Residential District	15'	15'	15'
I-1 Adjacent to a Residential District	30'	30'	30'

(5) Ornamental trees shall not count toward the tree Requirement, but may count for the shrub requirement at a 1:1 equivalent.

(6) No more than 12 passenger parking spaces shall be in a row without a landscape island. Parking islands shall not be less than eight feet in width measured. Trees shall maintain a clear trunk height of six feet and all shrubs and perennials shall be maintained at a height no higher than three feet. Utilizing a shrub or perennial with a natural maximum mature height of three feet or less is highly recommended to discourage the shearing of naturally mature larger material.

(7) Landscape plan approval. A landscape plan, drawn to scale be submitted to the village for approval. The plan in its

entirety, must be implemented within six months from the initial start date of operations for the business

(8) Maintenance and replacement. Any required landscape which is dead, dying, damaged, or removed, must be replaced within six months of discovery at the minimum size as indicated herein.

(D) Performance standards. Any use, including all permitted main and accessory uses and operations, established in any industrial district after the effective date of this Code shall comply with the performance standards set forth hereinafter for the district in which such use shall be located as a precedence to occupancy and use. Any use already established in such districts shall not be altered, added to or otherwise modified so as to conflict with, or further conflict with the performance standards set forth hereinafter for the district in which such use is located as a precedence to further use. Statements may be required by the planning commission from the owner stating such uses comply or will comply. In case of doubt, the village shall select and arrange for an independent survey by a professional engineer qualified in the particular field and the costs for the services shall be paid by the owner.

(1) All service and manufacturing operations shall be conducted wholly within enclosed within a structure or screened by a substantially solid wall or fence of such nature and height as to conceal all operations and materials therein from the view of any observer standing at the grade level at the present residential district line or a public street.

(2) Fire and explosive hazards. The storage, handling and use of flammable or explosive materials shall be permitted only in structures having incombustible exterior walls, and all operations in connection therewith shall be provided with adequate safety and protective devices against hazards of fire and explosion as well as with adequate fire-fighting and suppression equipment and devices standard to the operation involved.

(3) Dust-smoke. The emission of smoke, soot, fly "ash" fumes, dust and other types of air pollution borne by the wind shall be controlled so that the rate of emission and quantity deposited at any other district shall not be detrimental to or endanger the public health, safety, comfort, welfare or adversely affect property values.

(4) Solid waste resulting from all aforesaid operations shall be disposed of, stored in buildings, or enclosed within a wall or fence.

(5) Liquid wastes or sewage shall not be discharged into a reservoir, stream or other open body of water, or into a storm or sanitary sewer until treated so that the insoluble substances, oils, grease, acids, alkalines, and other chemicals in the wastes shall not exceed the amounts allowed by other codes of the state, county or village.

(6) Toxic or noxious matter. The emission of toxic, noxious or corrosive fumes or gases which would be demonstrably injurious to

property, vegetation, animals, or human health at or beyond the boundaries of the lot occupied by the use shall not be permitted.

(7) Odorous matter. The emission of odorous matter in such quantities as to produce a public nuisance or hazard beyond the lot occupied by the use shall not be permitted.

(8) Smokeless fuel shall be used for heating or other purposes

(9) Glare or heat from any process shall not be such as to affect residents in the nearest residential district; exterior lighting shall not produce a glare on public highways or adjacent residential districts.

(10) (a) Vibrations shall not be evident in the nearest residential district, except for not more than two minutes per hour from 7:00 a.m. to 7:00 p.m.

(b) Vibration. Vibrations shall not be permitted beyond the lot line occupied by the use which would be perceptible without the aid of instruments

(11) Noise. The sound pressure level of any operation on a lot, other than the operation of auto-calls, bells, motor vehicles, sirens or whistles, shall not exceed the average intensity of the street traffic noise at the nearest residential district, and no sound shall be objectionable due to intermitence, beat, frequency or shrillness.

(12) Radioactive or electrical disturbances Radioactive or electrical disturbances shall not be created which would adversely affect any form of life or equipment at or beyond the boundaries of the lot occupied by the use.

(13) Incineration facilities. Incineration facilities emitting neither excessive smoke nor odor shall be provided, located within the main building. No garbage, rubbish, waste matter, or empty containers shall be permitted outside of limits established in this section.

(14) Sign regulations. Signs in any industrial district shall be designed, erected, altered, moved or maintained, in whole or in part, in accordance with the regulations set forth in §§ 151.15 and 151.05.

(E) Prohibited uses.

(1) No use shall be permitted or authorized to be established which, when conducted in compliance with the provisions of these, and any additional conditions and requirements prescribed is or may become hazardous, noxious, or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration electrical interference, refuse matter, or water carried wastes. The use in violation of this section shall constitute a public nuisance. Further,

surface mining or strip mining, sanitary landfills, junkyards, and small wind energy systems are prohibited land uses anywhere within the village.

(2) All other uses not specified within this subchapter shall be subject to conditional usage as outlined below.

(F) Conditional uses, conditional zoning certificates.

(1) Purpose. To provide for the issuance of conditional zoning certificates where conditional permitted uses are provided for in this subchapter.

(2) Procedures for making application. Any application for a conditional zoning certificate for any land, structure or developmental use permitted under this chapter shall be submitted in accordance with the following procedures:

(a) Application submitted to the zoning inspector. Any application for a conditional zoning certificate shall be made to the zoning inspector and submitted to the village planning commission on a special form for that purpose. Each application shall be accompanied by the payment of a fee of \$125, which fee shall not be refundable. In addition, the village planning commission, where appropriate, may refer an application to qualified consultants for a report if it deems the proposed uses may cause the emission of dangerous or objectionable elements or require special study. The cost of such report shall be at the expense of the applicant.

(b) Data required with application.

1. Form supplied by village planning commission completed by applicant.
2. Site plan, plot plan, or development plan of the entire property being considered, drawn to a reasonable scale and showing the location of all abutting streets, the location of all existing adjacent and proposed structures, the types of buildings, their uses, and the acreage or area involved, including that for parking.
3. Completed plans and specifications for all proposed development and construction, and where appropriate, reclamation.
4. A statement supported by substantiating evidence regarding the requirements enumerated in § 151.50(F) (3) below.
5. Notify adjacent communities and the Ohio Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
6. Require that necessary maintenance will be provided for by the application for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be

diminished.

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(c) Review by village planning commission. The village planning commission shall review the proposed development, as presented on the submitted plans and specifications in terms of the standards established in this subchapter. Such review by the planning commission shall be completed and made public within 90 days of the date of submission.

(d) Hearing. After adequate review and study of any application, the village planning commission shall hold a public hearing or hearings upon every application after at least one publication in a newspaper of general circulation in the village at least ten days prior to the date of the hearing. Such notice shall indicate the place, time, and subject of the hearing.

(e) Issuance and revocation of conditional zoning certificates; violations and penalty. Only upon conclusion of hearing procedures relative to a particular application and adequate review and study may the village planning commission issue a conditional zoning certificate. The breach of any condition, safeguard, or requirement shall automatically invalidate the certificate granted, and shall constitute a violation of the chapter. This authority shall be in addition to the authority contained in the Ohio Revised Code for the revocation of a conditional zoning certificate.

(f) Resubmission of application for conditional use permit. No application for conditional zoning certificate, which has been denied wholly or in part by the village planning commission, shall be resubmitted for a period of at least one year from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions, which would be sufficient to justify reconsideration. Any new application, resubmission, or renewal for a conditional zoning certificate shall be accompanied by a fee of \$125.

(g) Termination.

1. The conditional zoning certificate shall become voided at the expiration of one year after the date of approval by the village planning commission unless the structure, alteration, or land use has commenced.

2. Any conditional use zoning certificate for any use permitted under these regulations shall be issued for a period of one year. Not less than 60 days prior to the expiration of said certificate, the permit holder shall apply for a renewal of the conditional use zoning certificate. Prior to the expiration of said certificate, the zoning inspector shall inspect and determine whether any violation of the conditional use zoning certificate exists. Following the inspection by the zoning inspector, if it is determined that a violation does exist, or if during the permit year a violation was cited, then the board of zoning appeals shall conduct a public hearing to determine whether or not to issue a continuation of the conditional use zoning certificate for an additional one year period. If no violation exists or if during the permit year no violation was cited, then the zoning inspector may issue a conditional use zoning certificate for an additional one year period.

(h) Continuation of existing uses conditional permissible. All uses existing at the time of passage of this chapter and conditionally permissible in their respective districts under this chapter shall be issued conditional zoning certificates by the village planning commission within one year after the passage of this chapter.

(3) Basis of determination.

(a) The village planning commission shall establish that the general standards and the specific standards pertinent to each use indicated herein shall be satisfied by the completion and operation of the proposed development.

(b) General standard. The village planning commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use on the proposed location:

1. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the same area;

2. Will not be hazardous or disturbing to existing or future neighboring uses;

3. Will not be detrimental to property in the immediate vicinity or to the community as a whole;

4. Will be served adequately by essential public facilities and series such as highways, streets, police and fire protection, drainage structures, refuse disposal, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;

5. Will be in compliance with state, county, and village ordinances and regulations;

6. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets or roads.

(G) Nonconforming uses.

(1) Purpose. The purpose of this section is to provide for the continuation of uses that do not conform to the existing zoning, but which were in operation prior to the enactment of this section or amendments thereto.

(2) Regulations. The lawful use of any buildings or land existing at the effective date of this section or amendments thereto may be continued, although such use does not conform with the provisions of this chapter.

(a) Alterations. A non-conforming building, structure, or use existing at the time this chapter takes effect, may be altered or enlarged so as to extend said non-conforming use, not to exceed an additional 50%, upon approval of the planning commission.

(b) Nonconforming to nonconforming use. A nonconforming use may be changed to another nonconforming use provided that the proposed nonconforming use is no more in conflict with the character and use of the district than the existing nonconforming use as determined by the planning commission.

(c) Restoration. Nothing in this chapter shall prevent the reconstruction, repairing, rebuilding, and continued use of any nonconforming building or structure, damaged by fire, collapse, explosion, or acts of God, subsequent to the date of this chapter wherein expense of such work does not exceed 60% of the replacement cost of the building or structure at the time such damage occurred.

(d) Construction approved prior to this chapter. Nothing in this chapter shall prohibit the completion of construction and use of a nonconforming building for which a zoning certificate has been issued prior to the effective date of this chapter or any amendment thereto provided that construction is commenced within 90 days after the issuance of such certificate; that construction is carried on diligently and without interruption for a continuous period in excess of 30 days; and that the entire building shall have been completed within two years after the issuance of said zoning certificate.

(e) Displacement. No nonconforming use shall be extended to displace a conforming use.

(f) Discontinuance or abandonment. Whenever a nonconforming use has been discontinued for a period of two years or more, any further use shall be in conformity with the provisions of this section.

(g) Unsafe structure. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority.

(h) District changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming use existing therein.

(3) (a) Continuation of existing uses conditionally permissible under this chapter:

(b) All uses existing at the time of the passage of this chapter or amendments thereto and conditionally permissible in their respective districts under this chapter shall be issued a conditional zoning certificate within one year after the passage of this chapter or amendments thereto. The certificates shall be issued by the village planning commission.

(H) Site plan review.

(1) When site plan review required. Site plan review and approval by the planning commission shall be required for all proposed development applications where the zoning inspector determines:

(a) The development would require the creation of five new parking spaces; or

(b) The proposed development or land use is likely to generate nuisance complaints from neighbors and review against performance standards is required;

(c) The application is a "major change" to an existing development that would require modification of previous conditions on a conditional use or variance;

(d) The proposed development will disturb one or more acre(s) of ground, or the proposed development will disturb less than one acre of ground but is part of a larger plan of development or sale.

(2) General requirements. Site plan review enables the planning commission to determine whether a development with potentially greater impacts upon the community complies with the detailed requirements of this section. The planning commission shall conduct a site plan review so that it may determine that the specific planning requirements of this chapter are being satisfied in the planning of the proposed project.

(3) Site plan submission requirements. All site plan application requirements must be submitted for an application to be complete; however, it is recognized that each development is unique. Therefore, the planning commission may require more or less information to be submitted in an application that set forth in the requirements of the aforementioned section. A site plan shall include the following information:

(a) All drawings prepared for submission shall be prepared by a professional engineer, architect, village planner or surveyor and shall bear their professional seal, unless it is determined by the planning commission, that due to the simplicity of the project, a professional seal is not required at this stage of the project development.

(b) Four copies of the site plan are required. Plans shall be drawn to a scale so that all features required to be shown on the plans are readily discernible, preferably one inch equals fifty feet (1"=50'), but no smaller than one inch equals 100 feet (1"= 100'). In all cases, the planning commission shall make the final determination as to the appropriateness of scale. The minimum size of the plot plan drawing shall be eighteen by twenty-four (18" x 24") inches, and copy of this same plan shall be provided on a 8-1/2" x 11" sheet of paper. Existing features on maps should be clearly distinguished from proposed features.

(c) Cover page of the site plan drawing shall indicate:

1. Name, address and phone number of owner and/or applicant;

2. Name, address, telephone number and State of Ohio registration number of the registered surveyor, village planner, landscape architect or professional engineer who prepared the site plan;

3. Name, address and telephone number of the builder;

4. Proposed name of site (must not duplicate others in the village), subdivision name, original lot or parcel number, street address;

5. The proposed use of the site;

6. The legend of the site plan drawing shall indicate on each page a north arrow, date of preparation, the Ohio State Plane Coordinate Grid, and scale.

(d) Vicinity map. A vicinity map may be on the same sheet as the site plan drawing. The vicinity map shall be drawn at a scale that is appropriate and necessary to show required detail of the following information:

1. Description of the existing lot to be developed, including exact dimensions and total acreage determined by a property boundary line survey by a registered surveyor, showing bearings and distances including the geometric layout of the site showing complete dimensions of existing property lines, easements (and their purpose), and street right-of-way lines in the vicinity or adjacent to the subject property. Indicate street centerline stationing and pavement edges and walks for adjacent road(s). Bearing and distance dimensions shall be shown on property lines to property corners. Property pins or other approved markers shall be set and shown at all property corners and property line stakes shall be set and shown where, due to topography, length of line or obstruction, the location of the property line cannot be determined by sighting from property corner to property corner;

2. The use and ownership of adjacent properties, and the location of structures, drives and other physical features within 50 feet of the site boundary, including the distance to the nearest street intersection;

(e) The relationship of the proposed development site to existing community facilities which serve or influence it, including:

1. Existing and proposed main traffic arteries;
2. Shopping facilities;
3. Schools;
4. Parks and playgrounds;
5. Any other significant community features.

(f) Natural features, including:

1. Approximate direction and gradient of ground slope including any embankments or retaining walls and the delineation

of existing drainage patterns (including intermittent and ephemeral streams, rivers and their related river or stream bank, ponds, drainage ditches, and swamps), floodways and floodplains as delineated by the Federal Emergency Management Agency, or any other existing watercourses or water bodies that appear on 1:24,000 U.S.G.S. maps; and

2. Identification of unique vistas;

3. The location and specifications for all significant existing vegetation (including locations of tree lines and individual trees 18 inches in diameter or more, identified by common or scientific names);

(g) Man-made features, including:

1. Location, length, width, square footage, and height of all existing buildings and structures, including decks, porches, storage sheds, fuel tanks, dumpsters, fences and walls, landscape beds, power lines and poles, telecommunication towers, flagpoles, bulkheads, docks, transformers, air conditioners, generators and such similar equipment. Any temporary structures shall be indicated, and shall not be continued as permanent structures (the period of continuance shall be set by the planning commission);

2. Zoning of the property, including zoning district lines where applicable, and lot size and front, rear, and side yard setback requirements. If a variance has been obtained, indicate the variance provisions and the date of the variance approval;

3. Areas of known or potential historical, archeological, or cultural significance, which may include stone walls, barns, earth mounds, and burial grounds.

(h) Proposed changes to the site, including:

1. Drainage plans (including storm water). Grading and surface drainage provisions are to be reviewed and approved by the village/county engineer;

2. Proposed architectural elevation drawings of the site for new buildings or exterior remodeling of existing buildings (including project architectural significance and design features);

3. Proposed location, length, width, square footage, and height of buildings, structures, decks, porches, storage sheds, dumpsters, signs, power lines and poles, telecommunication towers, flagpoles, bulkheads, docks, transformers, air conditioners, generators and such similar equipment. Any temporary structures shall be indicated and shall not be continued as permanent structures (the period of continuance shall be set by the planning commission);

4. The intended use, the proposed number of rooms, dwelling units, occupants, employees and other uses;

5. Traffic flow and its relation to abutting streets and the locations and dimensions of all proposed service roads,

driveways, sidewalks, and parking areas. A preliminary traffic impact study may be required, if traffic impact is anticipated to be significant;

6. The yard area and acreage of open space to be conserved;

7. The total square footage of all existing and proposed impervious area on the site;

8. The location and specifications for all natural features to be conserved, altered, or impacted by the development;

9. Proposed perimeter and internal landscaping beds, or construction of other devices (such as walls, fences, and the like). To secure the optimum effect of transition from a residential to a nonresidential district, the planning commission shall have the power to determine the need for and amount of plant materials, walls or fences, or any combination of these on any property line of land under consideration;

10. Proposed outside lighting;

11. Scale drawings of all signs requiring permits pursuant to § 151.15 (signs), together with an indication of the location, dimensions, materials, illuminating characteristic (both internal and/or external) and design for existing and/or proposed signs on the property;

12. The location and dimensions of proposed trash receptacles and/or any other solid waste disposal facilities, as well as, size, and specification of any screening of such trash or solid waste receptacles;

13. Evidence that the responsible health authority has approved the proposed sanitary sewage disposal facilities for the use for which the zoning certificate has been requested;

14. Erosion and sediment control measures for the parcel and preliminary calculations to document to sizing of storm water management facilities must be submitted in stormwater management plan (hereinafter known as SWMP);

15. The location and dimensions of all recreational areas designated as to type of use including, but not limited to, a detailed description of play apparatus or other recreational facilities to be provided in mini-parks;

16. Project completion schedule;

17. Demonstration that project meets minimum standards that ensure that public facilities and services needed to support development are available concurrently with the impacts of such development;

18. Any other pertinent data as may be necessary to determine and provide for the enforcement of this zoning chapter.

(4) Basis of determination.

(a) The proposed project shall conform to all requirements and/or conditions as the planning commission may deem necessary to meet the following criteria.

(b) Public utility plans for the proposed use shall not require uneconomical extensions of utility services at the expense of the community.

(c) Grading and surface drainage provisions are reviewed and approved by the village and/or county engineer.

(d) All principal buildings and open spaces shall be so located and related as to minimize the possibility of any adverse effects upon adjacent development. Building location and placement should be developed with consideration given to minimize removal of trees and change of topography.

(e) The site plan shall show a proper relationship between thoroughfares, service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety, and minimize the possibility of any adverse effects upon adjacent development.

1. The design and construction standards of all private streets, driveways and parking areas are to be built following approval of plans by the village/county engineer.

2. Vehicular approaches to the property shall be so designed as to not create an interference with traffic on surrounding public streets or roads.

3. On-site circulation shall be designed to make possible adequate fire and police protection.

4. Parking spaces shall meet all the requirements of the village zoning code.

(f) The site plan includes adequate provision for the screening of parking areas, service areas and active recreation areas from surrounding properties by landscaping and/or ornamental wall or fence. Such uses should be properly landscaped to be harmonious with surrounding residential uses.

(5) Action by the planning commission.

(a) The planning commission shall consider the application in a timely fashion, and may, in its discretion, hear from the applicant or members of the public. After reviewing the application, the planning commission shall make findings and recommendations and the reasons therefore. In response to the planning commission recommendations, the applicant may modify the application.

(b) If the planning commission determines the application complies with all of the applicable requirements herein, it may approve the site plan. If the planning commission determines the application is not in compliance with one or more of the requirements herein, the planning commission shall specify the particular requirements the application fails to meet and it shall deny approval of the site plan or approve the site plan subject to modification. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the planning commission to be unsatisfied through this process.

(6) Conformance with site plan.

(a) The use, placement and dimensions of all buildings, driveways, sidewalks, parking areas, curb cuts and recreation areas and the installation of landscaping, fences and walls shall conform to the approved site plan.

(b) A performance bond or other financial guarantee of 110% shall be placed with the village clerk to insure that the landscaping is installed, that the hard surfacing of the private drives and parking areas is installed, and that the surface water drainage is installed, all in conformance with approved plans.

(Ord. 5-2014, passed 2-16-15)

§ 151.52 I-2 DOWNTOWN INDUSTRIAL.

General industrial district use regulations. Buildings and land shall be used, and buildings shall be designed, erected, altered, moved and maintained, in whole or in part, only for the purposes set forth in the following schedule of permitted main and accessory buildings and uses, and only in accordance with the regulations contained in this subchapter.

(A) Permitted uses. In the industrial district, land shall be used and buildings shall be designed, erected, altered, moved, or maintained only for the purposes set forth in the following schedule of permitted main and accessory buildings and uses, and only in accordance with the regulations contained in this subchapter.

(1) Main building use.

(a) Services, sales, and storage establishments limited to:

1. Those buildings or uses permitted in the B-2 district in § 151.40(B) (2), (3), and (4).

2. Railroad yards, transload facilities and storage yards for materials and containers transported by rail.

3. Printing, publishing, and engraving.

4. Truck terminals, including office, warehouse and storage.

5. Trade/contractors facility including carpenter, cabinetry, upholstering sheet metal, plumbing, heating, roofing, air conditioning, sign painting, landscaping, general contracting, and other similar facilities.

6. Products from previously and elsewhere prepared materials (i.e. cardboard, cellophane, clay, cloth, fibers, glass, leather, metals, paper, plastic, precious or semi-precious metals and/or stones, rubber, wax or wood).

7. Distributor warehouse and wholesale business establishments.

8. Mini-storage and warehouse.

9. Contractor equipment storage yard or rental equipment.

(b) Manufacturing, compounding, processing, cleaning, servicing, testing storage and repair activities.

1. Clocks, cutlery, and kitchen utensils.

2. Electric equipment such as fans, irons, lighting fixtures, motors, radios, television sets, toasters, and other household appliances.

3. Hand tools and builders' hardware

4. Engineering, medical, and scientific instruments and electronic and mechanical control and communication devices and equipment.

5. Sporting goods and athletic equipment.

6. Paper and allied products

7. Musical instruments, toys, novelties, and other similar small rubber, plastic or metal products

8. Preparation and processing of food and drink products, cosmetics, pharmaceuticals, and toiletries (except when such operation would create a hazard or common-law nuisance beyond the confines of the building). Slaughter houses or processes which manufacture sauerkraut, vinegar, yeast and rendering or refining of fats or oils shall not be permitted.

9. Plastics manufacturing, molding and shaping or other chemical processing and packaging.

10. Fabricated metals and machine shops, including machine shop operations for stamping, tool and die, gauge, blacksmith operations, welding or similar types of operations.

11. Fabrication of furniture and cabinets.

12. Vehicle assembly and major repair.
13. Natural gas and natural gas by-products
14. Pottery, figurines or other ceramic products
15. Electric and neon signs, billboards and other such structures.
16. Rag, carpet or rug cleaning.
17. Steel and/or specialty metal production.

(c) Research and exploration.

1. Experimental testing and research facilities provided no testing or experimentation creates a hazard beyond the confines of the building. There shall be no processing handling, storage, or dispensing of nuclear or radioactive waste.

2. Mainstream and alternative energy testing, research, storage and offices to include, solar, oil and gas, geothermal, compressed natural gas, biofuel, liquefied natural gas, hydrogen and fuel cells provided no practices create a hazard beyond the confines of the building.

(d) Community facilities.

1. College, University, Technical, Business, or Trade school-public and private.

2. Public service, safety, maintenance and storage facilities.

(e) Signs, as permitted and regulated in § 151.15.

(2) Accessory building or use.

(a) Storage of materials and products within enclosed buildings or in open yards and other processes clearly incidental to the main use.

(b) Maintenance facilities.

(c) Storage garages.

(d) Off-street parking and loading areas, as provided for in § 151.14.

(e) Sign regulations. Signs in any industrial district shall be designed, erected, altered, moved or maintained, in whole or in part, in accordance with the regulations set forth in §§ 151.05 and 151.15.

(f) Fencing and screening, as regulated in § 151.14(J). (Ord. 895, passed 2-18-64) Penalty, see § 151.99

(B) Lot and height regulations. Lot area and lot width for the foregoing permitted uses shall be sufficient to provide space for the main and accessory buildings and to provide such space as is necessary to satisfy the yard and off-street parking and loading requirements of this chapter. The minimum lot frontage shall be 30 feet.

(1) Main and accessory use buildings shall be designed, erected, altered, moved, or maintained in accordance with the regulations set forth in the following schedule:

	Maximum Building Height
Adjacent to a Non-Residential District	40'
Adjacent to a Residential District	40'

(2) Building setbacks for main and accessory use structures shall be maintained in accordance with the regulations set forth in the following schedule:

	Front Yard	Side Yard	Rear Yard
Adjacent to a Non-Residential District	30'	35'	45'
Adjacent to a Residential District	30'	35'	45'

(C) General landscape yard buffer and parking regulations.

(1) Landscape buffer yard for industrial uses:

	Landscape Buffer		
	Front Yard	Side Yard	Rear Yard
I-1 Adjacent to a Non-Residential District	10'	10'	10'
I-1 Adjacent to a Residential District	10'	10'	10'

(2) Plant material for landscape buffers yards shall be laid out as follows:

(a) Shade trees shall be spaced a minimum of ten feet on center and a maximum of 40 feet on center. An irregular spacing and grouping of plant material shall be utilized to create a more natural than man-made screen. Trees must be spaced out the entire length of the buffer yard area and not congregated in one area.

(b) Evergreen trees shall be spaced a minimum of eight feet on center and a maximum of 20 feet on center. An irregular spacing and grouping of plant material shall be utilized to create a more

natural than man-made screen. Trees must be spaced out the entire length of the buffer yard area and not congregated in one area.

(c) Buffer lawn (side and rear yards only). A 'no-mow' lawn mix may be utilized, and is recommended, for a natural appearance and reduced maintenance activities.

(3) Front landscape buffer yard requirements:

(a) Adjacent to a non-residential district five trees and 20 shrubs per 100 feet of frontage.

(b) Adjacent to a residential district eight trees and 30 shrubs per 100 feet of frontage.

(c) In the side and rear yard buffers, a mix of 30% evergreen trees and 70% deciduous shade trees shall be utilized.

(4) Parking setbacks shall be designed as follows:

	Front Yard	Side Yard	Rear Yard
I-1 Adjacent to a Non-Residential District	15'	15'	15'
I-1 Adjacent to a Residential District	15'	15'	15'

(5) Ornamental trees shall not count toward the tree requirement, but may count for the shrub requirement at a 1:1 equivalent.

(6) No more than 12 passenger parking spaces shall be in a row without a landscape island. Parking islands shall not be less than eight feet in width measured. Trees shall maintain a clear trunk height of six feet and all shrubs and perennials shall be maintained at a height no higher than three feet. Utilizing a shrub or perennial with a natural maximum mature height of three feet or less is highly recommended to discourage the shearing of naturally mature larger material.

(7) Landscape plan approval. A landscape plan, drawn to scale is to be submitted to the village for approval. The plan in its entirety, must be implemented within six months from the initial start date of operations for the business.

(8) Maintenance and replacement. Any required landscape which is dead, dying, damaged, or removed, must be replaced within six months of discovery at the minimum size as indicated herein.

(D) Performance standards. Any use, including all permitted main and accessory uses and operations, established in any industrial district after the effective date of this Code shall comply with the performance standards set forth hereinafter for the district in which such use shall be located as a precedence to occupancy and use. Any use

already established in such districts shall not be altered, added to or otherwise modified so as to conflict with, or further conflict with the performance standards set forth hereinafter for the district in which such use is located as a precedence to further use. Statements may be required by the planning commission from the owner stating such uses comply or will comply. In case of doubt, the village shall select and arrange for an independent survey by a professional engineer qualified in the particular field and the costs for the services shall be paid by the owner.

(1) All service and manufacturing operations shall be conducted wholly within enclosed structures and all raw materials, fuel, machinery and equipment, including trucks, used in the operations shall be enclosed within a structure or screened by a substantially solid wall or fence of such nature and height as to conceal all operations and materials therein from the view of any observer standing at the grade level at the present residential district line of a public street.

(2) Fire and explosive hazards. The storage, handling and use of flammable or explosive materials shall be permitted only in structures having incombustible exterior walls, and all operations in connection therewith shall be provided with adequate safety and protective devices against hazards of fire and explosion as well as with adequate fire-fighting and suppression equipment and devices standard to the operation involved.

(3) Dust-smoke. The emission of smoke, soot, fly "ash" fumes, dust and other types of air pollution borne by the wind shall be controlled so that the rate of emission and quantity deposited at any other district shall not be detrimental to or endanger the public health, safety, comfort, welfare or adversely affect property values.

(4) Solid waste resulting from all aforesaid operations shall be disposed of, stored in buildings, or enclosed within a wall or fence.

(5) Liquid wastes or sewage shall not be discharged into a reservoir, stream or other open body of water, or into a storm or sanitary sewer until treated so that the insoluble substances, oils, grease, acids, alkalines, and other chemicals in the wastes shall not exceed the amounts allowed by other codes of the state, county or village.

(6) Toxic or noxious matter. The emission of toxic, noxious or corrosive fumes or gases which would be demonstrably injurious to property, vegetation, animals, or human health at or beyond the boundaries of the lot occupied by the use shall not be permitted.

(7) Odorous matter. The emission of odorous matter in such quantities as to produce a public nuisance or hazard beyond the lot occupied by the use shall not be permitted.

(8) Smokeless fuel shall be used for heating or other purposes.

(9) Glare or heat from any process shall not be such as to affect residents in the nearest residential district; exterior lighting shall not produce a glare on public highways or adjacent residential districts.

(10) (a) Vibrations shall not be evident in the nearest residential district, except for not more than two minutes per hour from 7:00 a.m. to 7:00p.m.

(b) Vibration Vibrations shall not be permitted beyond the lot line occupied by the use which would be perceptible without the aid of instruments.

(11) Noise. The sound pressure level of any operation on a lot, other than the operation of auto-cals, bells, motor vehicles, sirens or whistles, shall not exceed the average intensity of the street traffic noise at the nearest residential district, and no sound shall be objectionable due to intermittence, beat, frequency or shrillness.

(12) Radioactive or electrical disturbances Radioactive or electrical disturbances shall not be created which would adversely affect any form of life or equipment at or beyond the boundaries of the lot occupied by the use.

(13) Incineration facilities Incineration facilities emitting neither excessive smoke nor odor shall be provided, located within the main building. No garbage, rubbish, waste matter, or empty containers shall be permitted outside of limits established in this section.

(14) Sign regulations. Signs in any industrial district shall be designed, erected, altered, moved or maintained in whole or in part, in accordance with the regulations set forth in §§ 151.05 and 151.15.

(E) Prohibited uses.

(1) No use shall be permitted or authorized to be established which, when conducted in compliance with the provisions of these, and any additional conditions and requirements prescribed, is or may become hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, electrical interference, refuse matter, or water carried wastes. The use in violation of this section shall constitute a public nuisance. Further, surface mining or strip mining, sanitary landfills, junkyards, and small wind energy systems are prohibited land uses anywhere within the village.

(2) All other uses not specified within this chapter shall be subject to conditional usage as outlined below.

(F) Conditional uses, conditional zoning certificates.

(1) Purpose. To provide for the issuance of conditional zoning certificates where conditional permitted uses are provided for in this section.

(2) Procedures for making application Any application for a conditional zoning certificate for any land, structure or developmental use permitted under this chapter shall be submitted in accordance with the following procedures

(a) Application submitted to the zoning inspector. Any application for a conditional zoning certificate shall be made to the zoning inspector and submitted to the village planning commission on a special form for that purpose. Each application shall be accompanied by the payment of a fee of \$125, which fee shall not be refundable. In addition, the village planning commission, where appropriate, may refer an application to qualified consultants for a report if it deems the proposed uses may cause the emission of dangerous or objectionable elements or require special study. The cost of such report shall be at the expense of the applicant.

(b) Data required with application.

1. Form supplied by village planning commission completed by applicant.

2. Site plan, plot plan, or development plan of the entire property being considered, drawn to a reasonable scale and showing the location of all abutting streets, the location of all existing adjacent and proposed structures, the types of buildings, their uses, and the acreage or area involved, including that for parking.

3. Completed plans and specifications for all proposed development and construction, and where appropriate, reclamation.

4. A statement supported by substantiating evidence regarding the requirements enumerated in § 151.51(F)(3) below.

5. Notify adjacent communities and the Ohio Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

6. Require that necessary maintenance will be provided for by the application for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished.

(c) Review by village planning commission. The village planning commission shall review the proposed development, as presented on the submitted plans and specifications in terms of the standards established in this chapter. Such review by the planning commission shall be completed and made public within 90 days of the date of submission.

(d) Hearing. After adequate review and study of any application, the village planning commission shall hold a public hearing or hearings upon every application after at least one

publication in a newspaper of general circulation in the village at least ten days prior to the date of the hearing. Such notice shall indicate the place, time, and subject of the hearing.

(e) Issuance and revocation of conditional zoning certificates; violations and penalty. Only upon conclusion of hearing procedures relative to a particular application and adequate review and study may the village planning commission issue a conditional zoning certificate. The breach of any condition, safeguard, or requirement shall automatically invalidate the certificate granted and shall constitute a violation of the chapter. This authority shall be in addition to the authority contained in the Ohio Revised Code for the revocation of a conditional zoning certificate

(f) Resubmission of application for conditional use permit. No application for conditional zoning certificate which has been denied wholly or in part by the village planning commission, shall be resubmitted for a period of at least one year from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions, which would be sufficient to justify reconsideration. Any new application, resubmission, or renewal for a conditional zoning certificate shall be accompanied by a fee of \$125.

(g) Termination.

1. The conditional zoning certificate shall become voided at the expiration of one year after the date of approval by the village planning commission unless the structure, alteration, or land use has commenced.

2. Any conditional use zoning certificate for any use permitted under these regulations shall be issued for a period of one year. Not less than 60 days prior to the expiration of said certificate, the permit holder shall apply for a renewal of the conditional use zoning certificate. Prior to the expiration of said certificate, the zoning inspector shall inspect and determine whether any violation of the conditional use zoning certificate exists. Following the inspection by the zoning inspector, if it is determined that a violation does exist, or if during the permit year a violation was cited, then the board of zoning appeals shall conduct a public hearing to determine whether or not to issue a continuation of the conditional use zoning certificate for an additional one year period. If no violation exists or if during the permit year no violation was cited, then the zoning inspector may issue a conditional use zoning certificate for an additional one year period.

(h) Continuation of existing uses conditional permissible. All uses existing at the time of passage of this chapter and conditionally permissible in their respective districts under this chapter shall be issued conditional zoning certificates by the village planning commission within one year after the passage of this chapter.

(3) Basis of determination.

(a) The village planning commission shall establish that the general standards and the specific standards pertinent to each use indicated herein shall be satisfied by the completion and operation of the proposed development.

(b) General standards. The village planning commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use on the proposed location:

1. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

2. Will not be hazardous or disturbing to existing or future neighboring uses;

3. Will not be detrimental to property in the immediate vicinity or to the community as a whole;

4. Will be served adequately by essential public facilities and series such as highways, streets, police and fire protection, drainage structures, refuse disposal, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;

5. Will be in compliance with state, county, and village ordinances and regulations;

6. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets or roads.

(G) Nonconforming uses.

(1) Purpose. The purpose of this section is to provide for the continuation of uses that do not conform to the existing zoning, but which were in operation prior to the enactment of this chapter or amendments thereto.

(2) Regulations. The lawful use of any buildings or land existing at the effective date of this chapter or amendments thereto may be continued, although such use does not conform with the provisions of this chapter.

(a) Alterations. A non-conforming building, structure, or use existing at the time this section takes effect, may be altered or enlarged so as to extend said non-conforming use, not to exceed an additional 50%, upon approval of the planning commission.

(b) Nonconforming to nonconforming use. A nonconforming use may be changed to another nonconforming use provided that the proposed nonconforming use is no more in conflict with the character and use of the district than the existing nonconforming use as determined by the planning commission.

(c) Restoration. Nothing in this chapter shall prevent the reconstruction, repairing, rebuilding, and continued use of any nonconforming building or structure, damaged by fire, collapse, explosion, or acts of God, subsequent to the date of this Ordinance wherein expense of such work does not exceed 60% of the replacement cost of the building or structure at the time such damage occurred

(d) Construction approved prior to this chapter. Nothing in this chapter shall prohibit the completion of construction and use of a nonconforming building for which a zoning certificate has been issued prior to the effective date of this chapter or any amendment thereto provided that construction is commenced within 90 days after the issuance of such certificate; that construction is carried on diligently and without interruption for a continuous period in excess of 30 days; and that the entire building shall have been completed within two years after the issuance of said zoning certificate.

(e) Displacement. No nonconforming use shall be extended to displace a conforming use.

(f) Discontinuance or abandonment. Whenever a nonconforming use has been discontinued for a period of two years or more, any further use shall be in conformity with the provisions of this chapter.

(g) Unsafe structure. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority.

(h) District changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming use existing therein.

(3) Continuation of existing uses conditionally permissible under this chapter. All uses existing at the time of the passage of this chapter or amendments thereto and conditionally permissible in their respective districts under this chapter shall be issued a conditional zoning certificate within one year after the passage of this chapter or amendments thereto. The certificates shall be issued by the village planning commission.

(H) Site plan review.

(1) When site plan review required. Site plan review and approval by the planning commission shall be required for all proposed development applications where the zoning inspector determines:

(a) The development would require the creation of five new parking spaces; or

(b) The proposed development or land use is likely to generate nuisance complaints from neighbors and review against performance standards is required;

(c) The application is a "major change" to an existing development that would require modification of previous conditions on a conditional use or variance;

(d) The proposed development will disturb one or more acre(s) of ground, or the proposed development will disturb less than one acre of ground but is part of a larger plan of development or sale.

(2) General requirements. Site plan review enables the planning commission to determine whether a development with potentially greater impacts upon the community complies with the detailed requirements of this section. The planning commission shall conduct a site plan review so that it may determine that the specific planning requirements of this chapter are being satisfied in the planning of the proposed project.

(3) ) Site plan submission requirements. All site plan application requirements must be submitted for an application to be complete; however, it is recognized that each development is unique. Therefore, the planning commission may require more or less information to be submitted in an application that set forth in the requirements of the aforementioned section. A site plan shall include the following information:

(a) All drawings prepared for submission shall be prepared by a professional engineer, architect, village planner or surveyor and shall bear their professional seal, unless it is determined by the planning commission, that due to the simplicity of the project, a professional seal is not required at this stage of the project development.

(b) Four copies of the site plan are required. Plans shall be drawn to a scale so that all features required to be shown on the plans are readily discernible, preferably one inch equals fifty feet (1"=50'), but no smaller than one inch equals 100 feet (1"=100'). In all cases, the planning commission shall make the final determination as to the appropriateness of scale. The minimum size of the plot plan drawing shall be eighteen by twenty-four (18" x 24") inches, and copy of this same plan shall be provided on a 8-1/2" x 11" sheet of paper. Existing features on maps should be clearly distinguished from proposed features.

(c) Cover page of the site plan drawing shall indicate:

1. Name, address and phone number of owner and/or applicant;
2. Name, address, telephone number and State of Ohio registration number of the registered surveyor, village planner, landscape architect or professional engineer who prepared the site plan;
3. Name, address and telephone number of the builder;

4. Proposed name of site (must not duplicate others in the village), subdivision name, original lot or parcel number, street address;

5. The proposed use of the site;

6. The legend of the site plan drawing shall indicate on each page a north arrow, date of preparation, the Ohio State Plane Coordinate Grid, and scale.

(d) Vicinity map. A vicinity map may be on the same sheet as the site plan drawing. The vicinity map shall be drawn at a scale that is appropriate and necessary to show required detail of the following information:

1. Description of the existing lot to be developed, including exact dimensions and total acreage determined by a property boundary line survey by a registered surveyor, showing bearings and distances including the geometric layout of the site showing complete dimensions of existing property lines, easements (and their purpose), and street right-of-way lines in the vicinity or adjacent to the subject property. Indicate street centerline stationing and pavement edges and walks for adjacent road(s). Bearing and distance dimensions shall be shown on property lines to property corners. Property pins or other approved markers shall be set and shown at all property corners and property line stakes shall be set and shown where, due to topography, length of line or obstruction, the location of the property line cannot be determined by sighting from property corner to property corner;

2. The use and ownership of adjacent properties, and the location of structures, drives and other physical features within 50 feet of the site boundary, including the distance to the nearest street intersection;

(e) The relationship of the proposed development site to existing community facilities which serve or influence it, including;

1. Existing and proposed main traffic arteries;
2. Shopping facilities;
3. Schools;
4. Parks and playgrounds;
5. Any other significant community features.

(f) Natural features, including:

1. Approximate direction and gradient of ground slope including any embankments or retaining walls and the delineation of existing drainage patterns (including intermittent and ephemeral streams, rivers and their related river or stream bank, ponds, drainage ditches, and swamps), floodways and floodplains as delineated by the Federal Emergency Management Agency, or any other existing watercourses or water bodies that appear on 1:24,000 U.S.G.S. maps; and

2. Identification of unique vistas;

3. The location and specifications for all significant existing vegetation (including locations of tree lines and individual trees 18 inches in diameter or more, identified by common or scientific names);

(g) Man-made features, including:

1. Location, length, width, square footage, and height of all existing buildings and structures, including decks, porches, storage sheds, fuel tanks, dumpsters, fences and walls, landscape beds, power lines and poles, telecommunication towers, flagpoles, bulkheads, docks, transformers, air conditioners, generators and such similar equipment. Any temporary structures shall be indicated, and shall not be continued as permanent structures (the period of continuance shall be set by the planning commission);

2. Zoning of the property, including zoning district lines where applicable, and lot size and front, rear, and side yard setback requirements. If a variance has been obtained, indicate the variance provisions and the date of the variance approval;

3. Areas of known or potential historical, archeological, or cultural significance, which may include stone walls, barns, earth mounds, and burial grounds.

(h) Proposed changes to the site, including

1. Drainage plans (including storm water). Grading and surface drainage provisions are to be reviewed and approved by the village/county engineer;

2. Proposed architectural elevation drawings of the site for new buildings or exterior remodeling of existing buildings (including project architectural significance and design features);

3. Proposed location, length, width, square footage, and height of buildings, structures, decks, porches, storage sheds, dumpsters, signs, power lines and poles, telecommunication towers, flagpoles, bulkheads, docks, transformers, air conditioners, generators and such similar equipment. Any temporary structures shall be indicated, and shall not be continued as permanent structures (the period of continuance shall be set by the planning commission);

4. The intended use, the proposed number of rooms, dwelling units, occupants, employees and other uses;

5. Traffic flow and its relation to abutting streets and the locations and dimensions of all proposed service roads, driveways, sidewalks, and parking areas. A preliminary traffic impact study may be required, if traffic impact is anticipated to be significant;

6. The yard area and acreage of open space to be conserved;

7. The total square footage of all existing and proposed impervious area on the site;

8. The location and specifications for all natural features to be conserved, altered, or impacted by the development;

9. Proposed perimeter and internal landscaping beds, or construction of other devices (such as walls, fences, etc.). To secure the optimum effect of transition from a residential to a nonresidential district, the planning commission shall have the power to determine the need for and amount of plant materials, walls or fences, or any combination of these on any property line of land under consideration;

10. Proposed outside lighting;

11. Scale drawings of all signs requiring permits pursuant to §§ 151.05 and 151.15 (signs), together with an indication of the location, dimensions, materials, illuminating characteristic (both internal and/or external) and design for existing and/or proposed signs on the property;

12. The location and dimensions of proposed trash receptacles and/or any other solid waste disposal facilities, as well as size, and specification of any screening of such trash or solid waste receptacles;

13. Evidence that the responsible health authority has approved the proposed sanitary sewage disposal facilities for the use for which the zoning certificate has been requested;

14. Erosion and sediment control measures for the parcel and preliminary calculations to document to sizing of storm water management facilities must be submitted in stormwater management plan (hereinafter SWMP);

15. The location and dimensions of all recreational areas designated as to type of use including, but not limited to, a detailed description of play apparatus or other recreational facilities to be provided in mini-parks;

16. Project completion schedule;

17. Demonstration that project meets minimum standards that ensure that public facilities and services needed to support development are available concurrently with the impacts of such development;

18. Any other pertinent data as may be necessary to determine and provide for the enforcement of this zoning ordinance.

(4) Basis of determination The proposed project shall conform to all requirements and/or conditions as the planning commission may deem necessary to meet the following criteria:

(a) Public utility plans for the proposed use shall not require uneconomical extensions of utility services at the expense of the community.

(b) Grading and surface drainage provisions are reviewed and approved by the village/county engineer.

(c) All principal buildings and open spaces shall be so located and related as to minimize the possibility of any adverse effects upon adjacent development. Building location and placement should be developed with consideration given to minimize removal of trees and change of topography.

(d) The site plan shall show a proper relationship between thoroughfares, service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety, and minimize the possibility of any adverse effects upon adjacent development.

1. The design and construction standards of all private streets, driveways and parking areas are to be built following approval of plans by the village/county engineer.

2. Vehicular approaches to the property shall be so designed as to not create an interference with traffic on surrounding public streets or roads.

3. On-site circulation shall be designed to make possible adequate fire and police protection.

4. Parking spaces shall meet all the requirements of the village zoning code.

(e) The site plan includes adequate provision for the screening of parking areas, service areas and active recreation areas from surrounding properties by landscaping and/or ornamental wall or fence. Such uses should be properly landscaped to be harmonious with surrounding residential uses.

(5) Action by the planning commission.

(a) The planning commission shall consider the application in a timely fashion, and may, in its discretion, hear from the applicant or members of the public. After reviewing the application, the planning commission shall make findings and recommendations and the reasons therefore. In response to the planning commission recommendations, the applicant may modify the application.

(b) If the planning commission determines the application complies with all of the applicable requirements herein, it may approve the site plan. If the planning commission determines the application is not in compliance with one or more of the requirements herein, the planning commission shall specify the particular requirements the application fails to meet and it shall deny approval of the site plan or approve the site plan subject to modification. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the planning commission to be unsatisfied through this process.

(6) Conformance with site plan.

(a) The use, placement and dimensions of all buildings, driveways, sidewalks, parking areas, curb cuts and recreation areas and the installation of landscaping fences and walls shall conform to the approved site plan.

(b) A performance bond or other financial guarantee of 110% shall be placed with the village clerk to insure that the landscaping is installed, that the hard surfacing of the private drives and parking areas is installed, and that the surface water drainage is installed, all in conformance with approved plans.

(Ord. 5-2014, passed 2-16-15)

§ 151.53 SEXUALLY ORIENTED BUSINESSES.

(A) Purpose and intent.

(1) In enacting this section, pursuant to R.C. §§ 503.51 and 503.52, the Village of Navarre, hereinafter referred to "the village" makes the following statement of intent and findings:

(a) Adult entertainment establishments require special supervision from the public safety agencies of the village in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of the village.

(b) The village council and village zoning commission find that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature.

(c) The concern over sexually transmitted diseases is a legitimate health concern of this village that demands reasonable regulation of adult entertainment establishments by the village in the specified manner and expanded authority for reasonable regulation of adult entertainment establishments by local governments, in order to protect the health and well-being of the citizens.

(d) Minimal regulations enacted by the village are a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

(e) There is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, cause increased crime, particularly in the overnight hours, and downgrade property values.

(f) The village council and village zoning commission desires to minimize and control these adverse effects by regulating adult entertainment establishments in the specified manner. And by

minimizing and controlling these adverse effects, the village council and village planning commission seek to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.

(g) The village council and village zoning commission has determined that current local zoning and other locational criteria do not adequately protect the health, safety, and general welfare of the people of the village and that expanded regulation of adult entertainment establishments is necessary.

(h) It is not the intent of the village council and village zoning commission in enacting this act to suppress or authorize the suppression of any speech activities protected by the First Amendment, but to enact content-neutral statutes that address the secondary effects of adult entertainment establishments.

(i) It is not the intent of the village council and village zoning commission to condone or legitimize the distribution of obscene material, and the village council and village planning commission recognize that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in this state.

(2) It is the intent of the village council and village zoning commission in enacting this section to regulate in the specified manner adult entertainment establishments in order to promote the health, safety, morals, and general welfare of the citizens of the village and establish reasonable regulations to prevent the deleterious secondary effects of adult entertainment establishments within the village. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent of the village council and village zoning commission in enacting this chapter to restrict or deny, or authorize the restriction or denial of, access by adults to sexually oriented materials protected by the First Amendment, or to deny, or authorize the denial of, access by the distributors and exhibitors of adult entertainment and adult materials to their intended market. Neither is it the intent nor effect of the village council and village planning commission in enacting this section to condone or legitimize the distribution or exhibition of obscene material.

(3) Based on evidence concerning the adverse secondary effects of adult uses on communities presented in hearings and in reports made available to the legislature and subsequently adopted by the Ohio General Assembly as findings under Section 3 of House Bill 23 (and on findings incorporated in the cases of Township of Littleton, Colorado v. Z.J. Gifts D-4, L.L.C. (2004), 541 U.S. 774; Township of Erie v. Pap's A.M. (2000), 529 U.S. 277; Barnes v. Glen Theatre, Inc.

(1991), 501 U.S. 560; Township of Renton v. Playtime Theatres, Inc. (1986), 475 U.S. 41; Young v. American Mini Theatres (1976), 426 U.S. 50; California v. LaRue (1972), 409 U.S. 109; DLS; Inc. v. Township of Chattanooga (6th Cir. 1997), 107 F.3d 403; East Brooks Books, Inc. v. Township of Memphis (6th Cir. 1995), 48 F.3d 220; Harris v. Fitchville Township Trustees (N.D. Ohio 2000), 99 F. Supp.2d 837; Bamon Corp. v. Township of Dayton (S.D. Ohio 1990), 730 F. Supp. 90, aff'd (6th Cir. 1991), 923 F.2d 470; Broadway Books v. Roberts (E.D. Tenn. 1986), 642 F. Supp. 486; Bright Lights, Inc. v. Township of Newport (E.D. Ky. 1993), 830 F. Supp. 378; Richland Bookmart v. Nichols (6th Cir. 1998), 137 F.3d 435; Deja Vu v. Metro Government (6th Cir. 1999), 1999 U.S. App. LEXIS 535; Threesome Entertainment v. Strittmather (N.D. Ohio 1998), 4 F.Supp.2d 710; J.L. Spoons, Inc. v. Township of Brunswick (N.D. Ohio 1999), 49 F. Supp.2d 1032; Triplett Grille, Inc. v. Township of Akron (6th Cir. 1994), 40 F.3d 129; Nightclubs, Inc. v. Township of Paducah (6th Cir. 2000), 202 F.3d 884; O'Connor v. Township and County of Denver (10th Cir. 1990), 894 F.2d 1210; Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County (6th Cir. 2001), 2001 U.S. App. LEXIS 26007; State of Ohio ex rel. Rothal v. Smith (Ohio C.P. 2002), Summit C.P. No. CV 01094594; Z.J. Gifts D-2, L.L.C. v. Township of Aurora (10th Cir. 1998), 136 F.3d 683; Connection Distrib. Co. v. Reno (6th Cir. 1998), 154 F.3d 281; Sundance Assocs. v. Reno (10th Cir. 1998), 139 F.3d 804; American Library Association v. Reno (D.C. Cir. 1994), 33 F.3d 78; American Target Advertising, Inc. v. Giani (10th Cir. 2000), 199 F.3d 1241; and other cases and on reports of secondary effects occurring in and around adult entertainment establishments in Phoenix, Arizona (1984); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma Township, Oklahoma (1986); Cleveland, Ohio (1977); Dallas, Texas (1997); St. Croix County, Wisconsin (1993); Bellevue, Washington (1998); Newport News, Virginia (1996); Tucson, Arizona (1990); St. Paul, Minnesota (1988); Oklahoma Township, Oklahoma (1986 and 1992); Beaumont, Texas (1982); New York, New York (1994); Ellicottville, New York (1998); Des Moines, Iowa (1984); Islip, New York (1980); Adams County, Colorado (1987); Manatee County, Florida (1987); New Hanover County, North Carolina (1989); Las Vegas, Nevada (1978); Cattaraugus County, New York (1998); Cleburne, Texas (1997); Dallas, Texas (1997); El Paso, Texas (1986); New York Times Square study (1994); Report to ACLJ on the Secondary Impacts of Sex Oriented Businesses (1996); findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); and on testimony to Congress in 136 Cong. Rec. S. 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S. 5636, 134 Cong. Rec. E. 3750; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; and from various other police reports, testimony, newspaper reports, and other documentary evidence), and subsequent

findings in *Sensations, Inc. v. City of Grand Rapids, Michigan Decency Action Council* (6th Cir. 2008), 526 F.3d 291; *729, Inc. v. Kenton County Fiscal Court* (6th Cir. 2008), 515 F.3d 485; and *Andy's Rest. & Lounge, Inc. v. City of Gary* (7th Cir. 2006), 466 F.3d 550, and the village council and village planning commission independent review of the same) the Navarre village council and village planning commission finds:

(a) Adult entertainment establishments lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments.

(b) Certain employees of adult entertainment establishments, as defined in this section as adult theaters and cabarets, engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(c) Sexual acts, including masturbation and oral and anal sex occur at adult entertainment establishments, especially those that provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows. The "couch dances" or "lap dances" that frequently occur in adult entertainment establishments featuring live nude or seminude dancers constitute or may constitute the offense of "engaging in prostitution" under R.C. § 2907.25

(d) Offering and providing private or semi-private booths or cubicles encourages such activities, which creates unhealthy conditions.

(e) Persons frequent certain adult theaters, adult arcades, and other adult entertainment establishments for the purpose of engaging in sexual activity within the premises of those adult entertainment establishments.

(f) Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, salmonella, campylobacter and shigella infections, chlamydial, myoplasmal and ureoplasmal infections, trichomoniasis, and chancroid

(g) Since 1981 and to the present, there have been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, and 253,448 through December 31, 1992.

(h) A total of 10,255 AIDS cases had been reported in Ohio as of January 1999. Ohio has required HIV case reporting since 1990, and the reported information shows 7,969 people living with (HIV) (4,213) and (AIDS) (3,756) in the state.

(i) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Ohio.

(j) The number of cases of early (less than one year) syphilis in the United States reported annually has risen. 33,613 cases were reported in 1982, and 45,200 cases were reported through November 1990.

(k) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

(l) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, and exposure to infected blood and blood components, and from an infected mother to her newborn.

(m) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(n) Sanitary conditions in some adult entertainment establishments are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(o) The findings noted in divisions (A) (3) (a) to (n) of this section raise substantial governmental concerns.

(p) Adult entertainment establishments have operational characteristics that require or mandate subject them to reasonable government regulation in order to protect those substantial governmental concerns.

(q) The enactment of this section will promote the general welfare, health, morals, and safety of the citizens of this village.

(B) Definitions. As used in this section:

"ADULT BOOKSTORE," "ADULT CABARET," "ADULT MOTION PICTURE THEATER," "ADULT VIDEO STORE," "CHARACTERIZED BY," "NUDE," "NUDITY," "STATE OF NUDITY," "SEMINUDE," "STATE OF SEMINUDITY," "SEXUAL DEVICE," "SEXUAL DEVICE SHOP," "SEXUAL ENCOUNTER CENTER," "SPECIFIED ANATOMICAL AREAS," and "SPECIFIED SEXUAL ACTIVITY" have the same meanings as in R.C. § 2907.40.

"ADULT ARCADE," "ADULT ENTERTAINMENT," "ADULT ENTERTAINMENT ESTABLISHMENT," "ADULT NOVELTY STORE," "ADULT THEATER," "DISTINGUISHED OR CHARACTERIZED BY THEIR EMPHASIS UPON," "NUDE OR SEMINUDE MODEL STUDIO," "REGULARLY FEATURES," "REGULARLY SHOWN," and "SEXUAL ENCOUNTER ESTABLISHMENT" have the same meanings as in R.C. § 2907.39.

"EMPLOYEE" Any individual on a full-time, part-time, or contract basis, regardless of whether the individual is denominated an employee, independent contractor, agent, or otherwise, but does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

"IMMEDIATE FAMILY." A person's spouse residing in the person's household, parents, siblings of the whole or of the half blood, and children, including adopted children.

"LICENSE" A license to act or operate a sexually oriented business, issued pursuant to this section.

"LICENSEE" A person in whose name a license to operate has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the sexually oriented business. With respect to an employee license issued under this section, licensee means an employee as defined by the definition of employment above in whose name a license has been issued authorizing employment at sexually oriented business.

"OPERATE." To control or hold primary responsibility for the operation of a sexually oriented business, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. "OPERATE" or "CAUSE TO BE OPERATED" shall mean to cause to function or to put or keep in operation.

"OPERATOR." Any individual on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

"PATRON." Any individual on the premises of a sexually oriented business, except for any of the following:

(a) An operator or an employee of the sexually oriented business;

(b) An individual who is on the premises exclusively for repair or maintenance of the premises or for the delivery of goods to the premises;

(c) A public employee or a volunteer firefighter emergency medical services worker acting within the scope of the public employee's or volunteer's duties as a public employee or volunteer's duties as a public employee or volunteer.

"PERSON." An individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

"PREMISES." The real property on which the sexually oriented business is located and all appurtenances to the real property, including, but not limited, to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages adjacent to the real property under the ownership, control, or supervision of the owner or operator of the sexually oriented business.

"SEXUALLY ORIENTED BUSINESS." An adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motion picture theater, adult novelty store, adult theater, adult video store, sexual device shop, sexual encounter center, and sexual encounter establishment as defined by this section, but does not include a business solely by reason of its showing, selling, or renting materials that may depict sex.

"SPECIFIED CRIMINAL ACTIVITY." Any of the following offenses:

(a) Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described above under the criminal or penal code of any local jurisdiction, state, or country;

(b) For which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or

2. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.

(c) The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this section.

"TRANSFER OF OWNERSHIP OR CONTROL," of a sexually oriented business shall mean any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute a controlling interest in the business whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

## (C) License required.

## (1) (a) No person shall:

(b) Operate a sexually oriented business as defined by division (B) without a valid sexually oriented business license issued by the village pursuant to this section.

(2) (a) Any person who violates sub-section (A)(1) above shall be guilty of a misdemeanor of the third degree for a first offense, and a misdemeanor of the second degree for a second offense, and a misdemeanor of the first degree for a third offense and higher.

(b) Fees for administering the license must be refunded if the license application is denied.

(3) A violation of division (C)(1) above shall be a ground for the suspension of a sexually oriented business license as provided for in division (D) of this section.

(4) No person shall act as an employee, as defined in this section, on the premises of a sexually oriented business without having secured a sexually oriented business employee license ("employee license") pursuant to this section.

(5) A violation of this section shall be a ground for the suspension of a sexually oriented business employee license as provided for in Section (D) of this section.

## (D) Application for license.

(1) An original or renewal application for a sexually oriented business license shall be submitted to the mayor, who shall then submit the application to the village zoning commission or its designee on a form provided by the village zoning commission. The village's application may require and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the village to determine whether the applicant meets the qualifications established in this section.

(2) A filing fee shall be paid at the time of filing the application, in the amount of \$125.

(3) An application for a sexually oriented business license shall identify and be signed by the following persons:

(a) If the business entity is owned by an individual, that individual.

(b) If the business entity is owned by a corporation, each officer or director of the corporation, any individual owning or controlling more than 50% of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed sexually oriented business.

(c) If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner (other than limited partners); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed sexually oriented business.

(4) An application for a sexually oriented business license must designate one or more individuals who are to be principally responsible for the operation of the proposed sexually oriented business, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed sexually oriented business on a regular basis. Each person so designated as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this section, and shall be considered a licensee if a license is granted.

(5) An application for a sexually oriented business license shall be completed according to the instructions on the application form, which shall require the following:

(a) If the applicant is:

1. An individual, state the legal name and any aliases of such individual; or

2. A partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or

3. A joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or

4. A corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacities of all officers and directors, the name of the registered corporate agent, and the address of the registered office for service of process.

(b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.

(c) State whether any applicant has been convicted of a specified criminal activity as defined in this section and if so, the specified criminal activity involved and the date, place, and jurisdiction of each such conviction.

(d) State whether any applicant has had a previous license under this section or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, or 50% or greater owner of a corporation licensed under this section whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(e) State whether any applicant holds any other licenses under this section or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.

(f) State the location of the proposed sexually oriented business, including a legal description of the property (i.e., permanent parcel number), street address, and telephone number(s), if any.

(g) State the mailing address and residential address of each applicant and each person signing the application.

(h) Submit a recent photograph of each applicant who is a natural person, taken by the village police department that clearly shows the applicant's face.

(i) Submit the fingerprints of each applicant who is a natural person, recorded by the village police department.

(j) For any applicant who is a natural person, describe and identify the location of any tattoos on such person's face, arms, legs, or hands, or any other anatomical area that normally would be visible when such person is on the premises of the proposed sexually oriented business.

(k) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.

(l) Submit proof that each applicant who is a natural person is at least 18 years old.

(m) Submit a sketch or diagram showing the configuration of the premises of the sexually oriented business. The diagram shall also designate the place at which the adult business license will be conspicuously posted, if granted. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(n) The above-required disclosures facilitate the police investigation into the applicant's criminal background regarding crimes of a sexual nature so that the village can determine whether the ordinances's civil disabilities provisions

(E) Issuance of a license.

(1) Upon receipt of an application for a sexually oriented business license, the mayor or his designee shall promptly request that the village prosecuting attorney review the information provided in the application concerning the criminal background of the applicant(s) and that the village prosecuting attorney shall transmit the results of its investigation in writing to the village zoning commission or its designee within five days of the completion of its investigation.

(2) Within five days of receipt of an application for a sexually oriented business, the planning commission or its designee shall notify the village fire chief and the health commissioner of such application. In making such notification, the village zoning commission or its designee shall request that the fire chief and health commissioner promptly inspect the premises for which the sexually oriented business license is sought to assess compliance with the regulations under their respective jurisdictions.

(3) The fire chief shall provide to the village zoning commission or its designee a written certification of whether the premises are in compliance with the village fire regulations within ten days of receipt of notice of the application

(4) The village zoning commission or its designee shall commence the inspection of the premises for which a sexually oriented business license is sought promptly upon receipt of the application, and shall complete, within ten days after receipt of the application, a written certification of whether the premises are in compliance with the village zoning ordinance, the village property maintenance code, and the provisions of this section related to physical characteristics of the premises, and whether the village has received notice from any state or county agency of the premises being in violation of any applicable state building or property codes.

(5) Within 21 days after receipt of a completed sexually oriented business license application, the village zoning commission or its designee shall approve or deny the issuance of a license. The village zoning commission or its designee shall approve the issuance of a license to an applicant unless he or she determines that one or more of the following findings is true:

(a) An applicant who is a natural person is under 18 years of age.

(b) An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided however, that no license shall be denied solely on the ground that an applicant has refused to disclose its social security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7 (a) (1).

(c) An applicant has, within the preceding 12 months, been denied a sexually oriented business license by any jurisdiction or has had a license to operate a sexually oriented business revoked by any jurisdiction.

(d) An applicant has been convicted of a specified criminal activity as defined in this section.

(e) The proposed sexually oriented business would violate or fail to be in compliance with any provisions of this section, the village zoning ordinance, the village property maintenance code, or state statute or regulation.

(f) The application and investigation fee required by this section has not been paid.

(g) An applicant is in violation of or not in compliance with any provision of this section, except as provided in division (E) (6) of this section.

(6) A sexually oriented business license shall state on its face the name of the applicant, the expiration date, and the address of the licensed sexually oriented business. All sexually oriented business licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at anytime.

(7) The village zoning commission or its designee shall advise the applicant in writing within three days of the village zoning commission's decision of the reasons for any license denial. If the village finds, subsequent to denial, that the basis for the denial of the license has been corrected or abated, the applicant may reapply.

(F) Expiration and renewal of license.

(1) Each license issued pursuant to this section shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than 90 days and no less than 21 days before the expiration date. If application is made less than 21 days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.

(2) An application for renewal of a sexually oriented business license shall be submitted to the mayor or his designee to be forwarded to the village zoning commission on a form provided by the village zoning commission. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this section. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or such application shall be revised to reflect any change in circumstances or conditions. Sketches or diagrams submitted with an initial sexually oriented business license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram still depicts the premises accurately.

(3) The village zoning commission or its designee shall make determinations concerning the approval of license renewals based on the same criteria and time mandates used to evaluate applications for new licenses under this section.

(4) The village zoning commission or its designee shall advise the applicant in writing within three days of the reason(s) for any denial of a license renewal.

(5) An application for renewal of an employee license shall be submitted to the mayor or his designee to be forwarded to the village zoning commission on a form provided by the village zoning commission. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this section. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or requires revision to reflect any change in circumstances or conditions.

(6) When the village denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. However, if the Village finds, subsequent to denial, that the basis for the denial of the renewal license has been corrected or abated, the applicant may reapply prior to the expiration of the one year period.

(G) Suspension.

(1) The village shall suspend a sexually oriented business license for a period not to exceed 30 days if it determines that a licensee:

(a) Has violated or is not in compliance with any division of this section; or

(b) Has knowingly allowed an employee to violate or fail to comply with any division of this section.

(2) The village shall suspend a sexually oriented business license for a period not to exceed 30 days if it determines that a licensee or its employee or agent has refused to allow, or has prohibited or has interfered with, an inspection of the licensed sexually oriented business premises as authorized by division (E) (2) and (3) of this section or any other reasonable inspection.

(3) The village shall suspend an employee license for a period not to exceed 30 days if it determines that a licensee has violated or is not in compliance with any division of this section.

(4) The Planning Commission or its designee shall advise the licensee in writing within three days of the reason(s) for any suspension.

## (H) Revocation.

(1) The village shall revoke a sexually oriented business license or employee license if a cause of suspension under this section occurs and the license has been suspended t o times within the preceding 12 months.

(2) The village shall revoke a sexually oriented business license if it determines that:

(a) A licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;

(b) The licensee(s) failed to comply with any requirement stated in the license, pursuant to this section, to correct specified deficiencies within 120 days;

(c) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(d) A licensee has knowingly allowed prostitution, solicitation, or the commission of a felony on the premises;

(e) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(f) A licensee has knowingly allowed any act of specified sexual activity, as defined in this section, to occur in or on the licensed premises;

(g) A licensee has been convicted of a specified criminal activity, as defined in this section, during the term of the license; or

(h) A licensee is delinquent in payment to the village, county, or state for any taxes or fees that were assessed or imposed in relation to any business.

(3) The village zoning commission or its designee shall advise the licensee in writing within three days of the reason(s) for any revocation.

(4) When the village revokes a license pursuant to divisions (H) (1), (H) (2) (c) through (g) or (H) (3) above, the licensee shall not be issued another license for one year from the date the revocation became effective.

(5) When the village revokes a license pursuant to divisions (H) (2) (a), (H) (2) (h) or (H) (3) above, the applicant may be granted a license if the basis for the revocation has been corrected or abated and at least 30 days have elapsed since the date the revocation became effective.

## (I) Appeal rights.

(1) Any denial, suspension, or revocation of a license under this section may be appealed to the board of zoning appeals by written notice within ten days of such denial, suspension, or revocation. Unless the applicant requests a longer period, the board of zoning appeals must hold a hearing on the appeal within 21 days and must issue a decision affirming or reversing the denial, suspension, or revocation within five days after the hearing. During the time between the date of the denial, suspension, or revocation of a license and the date of the board of zoning appeals decision affirming or reversing the denial, suspension, or revocation, the status quo of the license holder or applicant shall be maintained.

(2) In the event that the board of zoning appeals denies, suspends, or revokes a new or renewal license under this section, or any action taken on an appeal that is provided by this section, the applicant may pursue an appeal to Stark County Court of Common Pleas pursuant to R.C. Chapter 2506. The failure of the board of zoning appeals to render a decision on the application within the time prescribed in division (I)(1) above shall be considered an affirmance of the denial, suspension, or revocation of the license and the applicant may pursue an appeal to Stark County Court of Common Pleas pursuant to R.C. Chapter 2506. This appeal provision is intended to comply with the requirement for prompt judicial review stated by the United States Supreme Court in *Township of Littleton, Colorado v. Z. J. Gifts D-4 (2004)*, 541 U.S. 774.

(3) Any licensee lawfully operating a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this section, so that the status quo of the licensee is maintained during the pendency of an appeal to the board of zoning appeals of a decision rendered under this section and during the entire time required for the court to rule on the appeal pursuant to division (I)(2) above.

(4) Any licensee lawfully acting as an employee in a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this section, so that the status quo of the licensee is maintained during the pendency of an appeal to the board of zoning appeals of a decision rendered under this section and during the entire time required for the court to rule on the appeal pursuant to division (I)(2) above.

(5) In the event that any judicial review of the denial of a new or renewal license application or the revocation or suspension of a license is still pending 30 days before the expiration date of any license, the licensee may file a renewal license application with the mayor to be forwarded to the planning commission or its designee pursuant to this section. In the event that an application for renewal of a license is denied and the applicant seeks judicial review of that denial, the village has the right to consolidate such review with any pending judicial actions in regards to the previous denial, suspension or revocation of a license.

(6) If, during the pendency of any appeal pursued under division (I)(2) above, there are additional denials of a renewal license application or suspensions or revocations of that license, the village has the right to consolidate the appeal pursued under division (I)(2) above for the additional denials, suspensions or revocations with any pending appeal for that same licensee.

(J) Transfer of license. A sexually oriented business license is not transferable from one licensee to another or from one location to another. Any purported transfer of a sexually oriented business license shall automatically and immediately revoke that license.

(K) Additional regulations concerning the operation of a sexually oriented business.

(1) Sexual activity, live entertainment and performances.

(a) No person shall, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive innature.

(b) Any employee appearing on the premises of a sexually oriented business in a state semi-nudity, as defined by this section, must be on a stage that is at least 24 inches from the floor, and at a distance at least 36 inches from all parts of a clearly designated area in which patrons will be present.

(c) All live entertainment and performances in a sexually oriented business must take place on a stage that is at least 24 inches from the floor and a distance of at least 36 inches from all parts of a clearly designated area in which patrons will be present.

(d) The interior of the premises shall be configured in such a manner that there is a an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by the operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this division remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises

(e) No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a nude or semi-nude condition unless the employee, while nude or semi-nude, shall be and remain at least six feet from all patrons.

(f) Employees in a sexually oriented business shall maintain a minimum distance of five feet from areas on the business premises occupied by patrons for a minimum of 60 minutes after the employee appears in a nude or semi-nude condition within view of any patron. This regulation is not intended to prohibit ingress or egress from the premises. It is intended to control illicit sexual contact and reduce the incidents of prostitution occurring in the establishments.

(g) No patron who is not a member of the employee's immediate family shall knowingly touch an employee while that employee is nude or seminude or touches the clothing of any employee while that employee is nude or semi-nude.

(h) No employee who regularly appears nude or seminude on the premises of a sexually oriented business and while nude or seminude, shall knowingly touch a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or the clothing of a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or allow the patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family to touch the employee or the clothing of the employee.

(i) The provisions of divisions (K) (1) (a) through (h) shall not apply to an employee's use of any restroom or any single-sex dressing room that is accessible only to employees.

(j) In addition, divisions (K) (1) (a) through (h) shall not apply to live performances in which the patron and employee are separated by an impenetrable barrier such as, but not limited to, glass or plexiglass.

(2) Minors prohibited. No person under the age of 18 years shall be permitted on the premises of a sexually oriented business

(3) Hours of operation. No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day, except that a sexually oriented business that holds liquor permit pursuant to R.C. Chapter 4303.

(L) Permitted zoning district. Sexually oriented business establishments shall be permitted as a conditional use in the I-1 industrial district south of the Tuscarawas River and in no other district in the village.

(M) Location restrictions. Sexually oriented businesses shall be permitted in the I-1 industrial district, south of the Tuscarawas River, provided that:

(1) Land is available for purchase in the restricted location;

(2) The sexually oriented business may not be operated within:

- (a) 1,500 feet of a church, synagogue or regular place of religious worship;
- (b) 1,500 feet of a public or private elementary or secondary school;
- (c) 1,500 feet of a boundary of any residential district;
- (d) 1,500 feet of a public park;
- (e) 1,500 feet of a licensed day-care center;
- (f) 1,500 feet of an entertainment business that is oriented primarily towards children or family entertainment; or
- (g) 1,000 feet of another sexually oriented business

(3) A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business

(4) For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day care center, or child or family entertainment business.

(5) For purposes of division (M)(3) of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(N) Non-conforming uses.

(1) Any business lawfully operating on the effective date of this section that is in violation of the locational or structural configuration requirements of this section shall be deemed a non-conforming use. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.

(2) A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, or child or family entertainment business within 1,500 feet of the sexually oriented

business. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked.

(0) Signage.

(1) Notwithstanding any other village ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one primary sign and one secondary sign, as provided herein.

(2) Primary signs shall have no more than two display surfaces. Each such display surface shall:

(a) Not contain any flashing lights;

(b) Be a flat plane, rectangular in shape;

(c) Not exceed 75 square feet in area; and

(d) Not exceed ten feet in height or ten feet in length.

(3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(4) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(5) Secondary signs shall have only one display surface. Such display surface shall:

(a) Be a flat plane, rectangular in shape;

(b) Not exceed 20 square feet in area;

(c) Not exceed five feet in height and four feet in width; and

(d) Be affixed or attached to any wall or door of the enterprise.

(6) The provisions of divisions (0) (2) (a) and (0) (3) and (0) (4) shall also apply to secondary signs.

(P) Severability clause. If any section, sub-section, paragraph or clause of this section shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, sub-sections, paragraphs, and clauses shall not be affected.

(Q) Conflicting ordinances repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

(Ord. 5-2014, passed 2-16-15)

§ 151.60 ZONING INSPECTOR.

The administration of this chapter is vested in the zoning inspector. The zoning inspector shall ensure compliance with the provisions of this chapter by review of applications for and issuance of zoning certificates, periodic inspections, and other duties as stated in other provisions of this chapter.

(Ord . 895, passed 2-18-64)

§ 151.61 ZONING CERTIFICATE REQUIRED.

No land shall be used, no excavation or site improvement shall be begun, and no building or structure shall be erected, altered, or moved until a zoning certificate has been issued therefor by the zoning inspector. A zoning certificate shall not be issued for any building, structure, or use requiring a variance from the provisions of this chapter until that variance has been granted by the board of zoning appeals.

(Ord. 895, passed 2-18-64) Penalty, see § 151.99

§ 151.62 APPLICATION PLAT AND SITE PLAN.

The application for a zoning certificate submitted to the zoning inspector shall include the following: a plat of the lot to be developed, with dimensions, lot number, and evidence that the lot has been surveyed and properly located; and a site plan drawn to scale showing the location of proposed and existing buildings and structures, including signs, driveways, and parking areas; and proposed finished grades.

(Ord. 895, passed 2-18-64) Penalty, see § 151.99

§ 151.63 ISSUANCE, CONTENT OF CERTIFICATE.

(A) If the zoning inspector determines that the application and the plans fully comply with the provisions of this chapter, he shall issue a zoning certificate. If the application does not conform to the provisions of this chapter, the zoning inspector shall not issue a zoning certificate, but he shall list the reasons why the application was denied.

(B) The zoning inspector may, upon request of the owner, issue a zoning certificate certifying:

- (1) The use of the building or land.

(2) Whether that use conforms to all provisions of this chapter.

(3) Whether the use is a lawfully existing, nonconforming use. (Ord. 895, passed 2-18-64)

§ 151.64 PERMIT REQUIRED; MUDSLIDE HAZARDS.

(A) The zoning inspector shall require the issuance of a permit for any excavation, grading, fill, or construction in the village.

(B) The zoning inspector shall require **review** of each permit application to determine whether the proposed site and improvements will be reasonably safe from mudslides. If a proposed site and improvements are in a location that may be subject to mudslide hazards, further review must be made by persons qualified in geology and soils engineering, and the proposed new construction, substantial improvement, or grading must be adequately protected against mudslide damage and not aggravate the existing hazard.

(Ord. 16-1974, passed 11-19-74) Penalty, see § 151.99. "

§ 151.65 FLOOD HAZARD AREAS.

(A) The zoning inspector shall review all building permit applications for new construction or substantial improvements to determine whether the proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that is subject to flooding, any proposed new construction or substantial improvement, including prefabricated and mobile homes, must be designed or modified and anchored to prevent flotation, collapse, or lateral movement of the structure; use construction materials and utility equipment that are resistant to flood damage; and use construction methods and practices that will minimize flood damage.

(B) The zoning inspector shall review subdivision proposals and other proposed new developments to ascertain that all such proposals are consistent with the need to minimize flood damage; that all public utilities and facilities, such as sewer, gas, electrical, and water systems, are located, elevated, and constructed to minimize or eliminate flood damage; and that adequate drainage is provided so as to reduce exposure to flood hazards.

(C) The zoning inspector shall require new or replacement water supply systems or sanitary sewerage systems to be designed to minimize or eliminate infiltration of flood waters into those systems and discharges from those systems into flood waters. He shall also require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(Ord. 16-1974, passed 11-19-74)

Cross-reference:

Duties and responsibilities of the zoning inspector, see § 152.16

§ 151.66 RECORDS OF ZONING INSPECTOR; ZONE MAP.

(A) A record of all applications and certificates issued shall be on file in the office of the zoning inspector.

(B) The zoning inspector shall also maintain the official zone map certifying the nature and date of all amendments thereon and amendments to the text, with the effective date of each amendment.

(Ord. 895, passed 2-18-64)

§ 151.67 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis thereof, shall be filed with the zoning inspector, who shall properly record such complaint, immediately investigate and take such action as may be required in compliance with this chapter.

(Ord. 895, passed 2-18-64)

§ 151.68 ORDER OF VIOLATION.

(A) If the zoning inspector finds that any of the provisions of this chapter are being violated, he shall notify the person responsible for the violation, indicating the nature and extent of the violation. He shall order cessation of the violation or he shall take such action as is authorized by this chapter to ensure that the building or use will comply with this chapter.

(B) After such an order is served and posted on the premises, no work, except to correct the violation and effect compliance with this chapter, shall be permitted on any building or tract of land determined to be in violation.

(Ord. 895, passed 2-18-64)

§ 151.69 ZONING INSPECTOR TO ATTEND MEETINGS OF BOARD OF APPEALS.

The zoning inspector shall attend all meetings of the zoning board of appeals, for which attendance he shall be paid, at his usual hourly rate.

(Ord. 11-1978, passed 7-18-78)

§ 151.70 APPLICATIONS TO BE SUBMITTED ON STANDARDIZED FORMS.

All applications for a zoning certificate shall be submitted to the zoning inspector on such standardized forms as the zoning inspector shall provide. The zoning inspector shall be empowered to demand such additional information as provided for by law, or as is necessary to determine the validity of an application. The zoning inspector shall not complete nor prepare any application for a zoning certificate for any applicant.

(Ord. 11-1978, passed 7-18-78) Penalty, see § 151.99

§ 151.75 ESTABLISHMENT; MEMBERSHIP; POWERS.

(A) There is hereby established a planning commission in and for the village. The commission shall consist of five members, as follows: the mayor, one member of council to be elected by council for the remainder of his term as a member of council, and three citizens of the village to be appointed by the mayor for terms of six year each, except that the term of one of the members of the first commission shall be for four years and one for two years. All such members shall serve without compensation.

(B) The planning commission shall have such powers as are provided in R.C. Ch. 713.  
( '75 Code, § 1210.01)

§ 151.80 ESTABLISHMENT.

A board of zoning appeals is hereby established in and for the village. The board shall consist of five members appointed by council for five-year terms beginning on the effective date of this chapter (February 18, 1964). The terms of the original members shall be of such length and so arranged that the term of one member will expire each year. Vacancies shall be filled by appointment by council.  
(Ord. 895, passed 2-18-64)

§ 151.81 APPLICATION FOR APPEALS AND VARIANCES.

An appeal shall be entertained by the board of zoning appeals only if formal action has been taken by the zoning inspector with regard to an application for a zoning certificate, issuance of a stop order, specific referral, notice of violation or some similar action. The application for appeal from a decision or for a variance shall be filed with the zoning inspector and clerk of the board within 30 days of the filing of the application or issuance of a stop order. The application for an appeal or a variance shall include reference to the decision of the zoning inspector, the section of this chapter from which the appeal or variance is sought and the grounds of such appeal or variance.  
(Ord. 895, passed 2-18-64)

§ 151.82 JURISDICTION.

The board of zoning appeals shall adopt such rules and regulations, in accordance with this chapter, as may be necessary to carry into effect the powers and jurisdiction conferred upon it as follows:

(A) To hear appeals on decisions made by the zoning inspector on matters relating to this chapter for relief from any order, requirement, decision, or determination, including the refusal to grant or the revocation of permits, and to decide appeals by reversing or affirming, wholly or in part, or by modifying such order, requirement, decision, or determination, in accordance with the purpose and intent of this chapter.

(B) To hear and decide upon application for variances, where, owing to exceptional circumstances, a literal enforcement of the provisions of this chapter will result in an unnecessary hardship:

provided, however, that the granting of the variance will not be materially detrimental to the purpose of this chapter.  
(Ord. 895, passed 2-18-64)

§ 151.83 MEETINGS AND HEARINGS.

(A) The board of zoning appeals shall hold regular annual meetings in January of every year, and additional meetings thereafter during the year as needed to hear applications filed with the board and as determined necessary by the chairperson of the board. Each member shall be notified five days in advance of the meeting.

(B) If an appeal is received at least five days before a regularly scheduled meeting of the board, the board shall consider the appeal and shall hold a hearing within 45 days from the meeting date.

(C) A decision shall be rendered within 30 days from the date of the hearing unless an extension of time is mutually agreed upon. Failure to render a decision within that period shall be considered approval.

(D) Notice of the time and place of hearings shall be mailed by first-class mail by the clerk-treasurer to the applicant, to all abutting property owners, and to other property owners determined by the board to be affected by the case as they appear in the current records of the county. Property owners shall be notified at least two weeks prior to the hearing. Notice shall also be published once each week for two consecutive weeks prior to the hearing in a newspaper of general circulation in the village.

(E) All meetings and hearings of the board shall be open to the public. The board shall have the power to administer oaths and to produce reports, findings, and other evidence pertinent to any issue referred to the board for a decision.

(Ord. 895, passed 2-18-64; Am. Ord. 5-2016, passed 7-18-2016)

Cross-reference:

Notification of public meetings, Ch. 37

§ 151.84 QUORUM AND VOTE.

A quorum shall consist of three members. A concurring vote of at least four members shall be necessary to reverse any order, requirement, decision, or determination of the zoning inspector.  
(Ord. 895, passed 2-18-64)

§ 151.85 REPORTS.

The board of zoning appeals shall provide a detailed report of all its proceedings, setting forth its reasons for decisions, the vote of each member participating therein, and the absence of a member or his failure to vote. This record, in addition to being permanently recorded, shall be posted for two weeks in a prominent place in the village hall.

(Ord. 895, passed 12-18-64)

§ 151.86 FEES.

Any request for an interpretation, exception, variance, or appeal before the board shall be accompanied by a minimum fee of \$80, which fee shall not be refundable. In the event that the board will find it necessary to draw upon any planning, legal, engineering, or any other expert testimony, the fee shall be raised to cover all expenses of the expert testimony.

(Ord. 11-1978, passed 7-18-78; Am. Ord. 17-1989, passed 11-7-89; Am. Ord. 5-1992, passed 5-19-92; Am. Ord. 10-1998, passed 9-21-98)

§ 151.87 APPLICATIONS TO BE SUBMITTED ON STANDARDIZED FORMS.

All applications to be heard before the board of zoning appeals shall be submitted to the board on such standardized forms as the board shall provide. The board shall be empowered to demand such additional information as provided for by law, or as is necessary to determine the action to be taken by virtue of the application. The board shall not complete nor prepare any application for any applicant.

(Ord. 11-78, passed 7-18-78)

§ 151.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this zoning code shall be fined not less than \$25 nor more than \$50. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. The owner or tenant of any building, structure, premises or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(Ord. 919, passed 8-4-64)

## FLOOD DAMAGE PREVENTION

§ 152.01 STATUTORY AUTHORIZATION.

Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures, for promoting the health, safety, and general welfare of its citizens. Therefore, the Council of the Village of Navarre, State of Ohio, does ordain as follows.

(Ord. 7-2007, passed 11-5-07)

§ 152.02 FINDINGS OF FACT.

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

(Ord. 7-2007, passed 11-5-07)

§ 152.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (F) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (G) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (H) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (I) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (J) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (K) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (L) Meet community participation requirements of the National Flood Insurance Program.  
(Ord. 7-2007, passed 11-5-07)

§ 152.04 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (A) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (B) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(D) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,

(E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Ord. 7-2007, passed 11-5-07)

#### § 152.05 DEFINITIONS.

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

"ACCESSORY STRUCTURE." A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

"APPEAL." A request for review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

"BASE FLOOD." The flood having a 1% chance of being equalled or exceeded in any given year. The "BASE FLOOD" may also be referred to as the 1% chance annual flood or 100-year flood.

"BASE (100-YEAR) FLOOD ELEVATION (BFE)." The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from one to three feet).

"BASEMENT." Any area of the building having its floor subgrade (below ground level) on all sides.

"DEVELOPMENT." Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"ENCLOSURE BELOW THE LOWEST FLOOR." See "LOWEST FLOOR."

"EXECUTIVE ORDER 11988 (FLOODPLAIN MANAGEMENT)." Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

"FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)." The agency with the overall responsibility for administering the National Flood Insurance Program.

"FILL." A deposit of earth material placed by artificial means.

"FLOOD" or "FLOODING." A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"FLOOD HAZARD BOUNDARY MAP (FHBM)." Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

"FLOOD INSURANCE RATE MAP (FIRM)." An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

"FLOOD INSURANCE RISK ZONES." Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

(1) Zone A: Special flood hazard areas inundated by the 100 -year flood; base flood elevations are not determined.

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

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

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

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

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

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

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

"FLOOD PROTECTION ELEVATION (FPE) "The base flood elevation plus zero feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.

"FLOODWAY."

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

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

"FREEBOARD." A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. "FREEBOARD" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

"HISTORIC STRUCTURE." Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior)° or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places maintained by the Ohio Historic Preservation Office; or

(4) Individually listed on the inventory of historic places maintained by the village's historic preservation program, which program is certified by the Ohio Historic Preservation Office.

"HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS. An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

"LETTER OF MAP CHANGE (LOMC) ." An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

(1) "LETTER OF MAP AMENDMENT {LOMA}." A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

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

(3) "CONDITIONAL LETTER OF MAP REVISION {CLOMR}." A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

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

"MANUFACTURED HOME." A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "MANUFACTURED HOME" does not include a "recreational vehicle." For the purposes of this chapter, a manufactured home includes manufactured homes and mobile homes as defined in R.C. Chapter 3733.

"MANUFACTURED HOME PARK." As specified in OAC 3701-27-01, any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

"NATIONAL FLOOD INSURANCE PROGRAM {NFIP}." A federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the federal government that

states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the federal government will make flood insurance available within the community as a financial protection against flood loss.

"NEW CONSTRUCTION." Structures for which the "start of construction" commenced on or after the initial effective date of the village's Flood Insurance Rate Map, July 5, 1982, and includes any subsequent improvements to such structures.

"PERSON." Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in R.C. § 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "AGENCY" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

"RECREATIONAL VEHICLE." A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"REGISTERED PROFESSIONAL ARCHITECT." A person registered to engage in the practice of architecture under the provisions of R.C. §§ 4703.01 to 4703.19.

"REGISTERED PROFESSIONAL ENGINEER" A person registered as a professional engineer under R.C. Chapter 4733.

"REGISTERED PROFESSIONAL SURVEYOR." A person registered as a professional surveyor under R.C. Chapter 4733.

"SPECIAL FLOOD HAZARD AREA." Also known as "AREAS OF SPECIAL FLOOD HAZARD", it is the land in the floodplain subject to a 1% or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, Al-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal, state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

"START OF CONSTRUCTION." The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the

construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

"STRUCTURE." A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

"SUBSTANTIAL DAMAGE." Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT." Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include:

(1) Any improvement to a structure that is considered "new construction;"

(2) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(3) Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure. "

"VARIANCE." A grant of relief from the standards of this chapter consistent with the variance conditions herein.

"VIOLATION." The failure of a structure or other development to be fully compliant with this chapter.

(Ord. 19-1996, passed 12-3-96; Am. Ord. 7-2007, passed 11-5-07)

#### § 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the village as identified by § 152.07, including any additional areas of special flood hazard annexed by the village.

(Ord. 7-2007, passed 11-5-07)

( § 152.07 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

(A) For the purposes of this chapter, the following studies and/or maps are adopted:

(1) Flood Insurance Study Village of Navarre, Ohio Stark County effective September 29, 2011.

(2) Flood Insurance Rate Map Village of Navarre, Ohio Stark County effective September 29, 2011.

(3) Flood Hazard and Floodway Map Village of Navarre, Ohio Stark County effective September 29, 2011.

(4) Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.

(5) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the village as required by § 152.26(C).

(B) Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of this chapter. Such maps and/or studies are on file at the Village Hall at 27 Canal Street West, Navarre, Ohio 44662.

(Ord. 7-2007, passed 11-5-07; Am. Ord. 5-2011, passed 8-1-11)

§ 152.08 COMPLIANCE.

(A) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this chapter and all other applicable regulations which apply to uses within the jurisdiction of this chapter, unless specifically exempted from filing for a development permit as stated in § 152.22.

(B) Failure to obtain a floodplain development permit shall be a violation of this chapter and shall be punishable in accordance with § 152.13.

(C) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this chapter and punishable in accordance with § 152.13

(Ord. Ord. 7-2007, passed 11-5-07)

§ 152.09 ABROGATION AND GREATER RESTRICTIONS.

( This chapter is not intended to repeal any existing ordinances (resolutions) including subdivision regulations, zoning or building codes. In the event of a conflict between this chapter and any other ordinance (resolution), the more restrictive shall be followed. This

chapter shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the regulations.

(Ord. Ord. 7-2007, passed 11-5-07)

**§ 152.10 INTERPRETATION**

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and,

(C) Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of this chapter may be in conflict with a state or federal law, such state or federal law shall take precedence over the chapter.

(Ord. 7-2007, passed 11-5-07)

**§ 152.11 WARNING AND DISCLAIMER OF LIABILITY.**

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

(Ord. 7-2007, passed 11-5-07)

**§ 152.12 NOTICE OF VIOLATION.**

Whenever the Floodplain Administrator determines that there has been a violation of any provision of this chapter, he or she shall give notice of such violation to the person responsible therefore and order compliance with this chapter as hereinafter provided. Such notice and order shall:

(A) Be put in writing on an appropriate form;

(B) Include a list of violations, referring to the section or sections of this chapter that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of this chapter;

(C) Specify a reasonable time for performance;

(D) Advise the owner, operator, or occupant of the right to appeal; and

(E) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(Ord. 7-2007, passed 11-5-07)

§ 152.13 VIOLATIONS AND PENALTIES.

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

(Ord. 7-2007, passed 11-5-07)

§ 152.14 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The Zoning Inspector is hereby appointed to administer and implement this chapter and is referred to herein as the Floodplain Administrator.

(Ord. 7-2007, passed 11-5-07)

§ 152.15 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

(A) Evaluate applications for permits to develop in special flood hazard areas.

(B) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.

(C) Issue permits to develop in special flood hazard areas when the provisions of this chapter have been met, or refuse to issue the same in the event of noncompliance.

(D) Inspect buildings and lands to determine whether any violations of this chapter have been committed.

(E) Make and permanently keep all records for public inspection necessary for the administration of this chapter including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of this chapter.

(F) Enforce the provisions of this chapter.

(G) Provide information, testimony, or other evidence as needed during variance hearings.

(H) Coordinate map maintenance activities and FEMA follow-up.

(I) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of this chapter.

(Ord. 7-2007, passed 11-5-07)

§ 152.16 FLOODPLAIN DEVELOPMENT PERMIT.

It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in § 152 .07 until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of this chapter. No such permit shall be issued by the Floodplain Administrator until the requirements of this chapter have been met.

(Ord. 7-2007, passed 11-5-07)

§ 152.17 APPLICATION REQUIRED.

An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his or her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

(A) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

(B) Elevation of the existing, natural ground where structures are proposed.

(C) Elevation of the lowest floor, including basement, of all proposed structures.

(D) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of this chapter.

(E) Technical analyses conducted by the appropriate design professional registered in the state and submitted with an application for a floodplain development permit when applicable:

(1) Floodproofing certification for non-residential floodproofed structure as required in § 152.26(E).

(2) Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of § 152.26(D) are designed to automatically equalize hydrostatic flood forces.

(3) Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in § 152.26(I).

(4) A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by § 152.26(I).

(5) A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by § 152.26(I).

(6) Generation of base flood elevation(s) for subdivision and large-scale developments as required by § 152.26(C).

(F) A floodplain development permit application fee set by the schedule of fees adopted by the village.  
(Ord. 7-2007, passed 11-5-07)

§ 152.18 REVIEW AND APPROVAL OF A FLOODPLAIN DEVELOPMENT PERMIT APPLICATION.

(A) Review.

(1) After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of this chapter have been met. No floodplain development permit application shall be reviewed until all information required in § 152.17 has been received by the Floodplain Administrator.

(2) The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

(B) Approval. Within 30 days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one year. A floodplain development permit shall expire one year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

(Ord. 7-2007, passed 11-5-07)

§ 152.19 INSPECTIONS.

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

(Ord. 7-2007, passed 11-5-07)

§ 152.20 POST-CONSTRUCTION CERTIFICATIONS REQUIRED.

The following as-built certifications are required after a floodplain development permit has been issued:

(A) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

(B) For all development activities subject to the standards of § 152.23.

(Ord. 7-2007, passed 11-5-07)

§ 152.21 REVOKING A FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with § 152.27

(Ord. 7-2007, passed 11-5-07)

§ 152.22 EXEMPTION FROM FILING A DEVELOPMENT PERMIT.

(A) An application for a floodplain development permit shall not be required for:

(1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.

(2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of OAC Section 3701.

(3) Major utility facilities permitted by the Ohio Power Siting Board under R.C. Chapter 4906.

(4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under R.C. Chapter 3734.

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

(B) Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of this chapter. (Ord. 7-2007, passed 11-5-07)

§ 152.23 MAP MAINTENANCE ACTIVITIES.

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the village's flood maps, studies and other data identified in § 152.07 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

{A) Requirement to submit new technical data.

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

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

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

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

(d) Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with **§ 152.26(C)**.

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

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

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

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

(4) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(B) Right to submit new technical data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor, and may be submitted at any time.

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

(Ord. 7-2007, passed 11-5-07)

#### § 152.24 DATA USE AND FLOOD MAP INTERPRETATION.

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

(A) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.

(B) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.

(C) When Preliminary Flood Insurance Rate Maps and or Flood Insurance Study have been provided by FEMA:

(1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering this chapter.

(2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(D) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 152.27.

(E) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.  
(Ord. 7-2007, passed 11-5-07)

#### § 152.25 SUBSTANTIAL DAMAGE DETERMINATIONS.

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

(1) Determine whether damaged structures are located in special flood hazard areas;

(2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and

(3) Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

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

(Ord. 7-2007, passed 11-5-07)

#### § 152.26 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in §§ 152.07 or 152.24.

## (A) Use regulations.

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

## (2) Prohibited uses.

(a) Private water supply systems in all special flood hazard areas identified by FEMA, permitted under R.C. Chapter 3701.

(b) Infectious waste treatment facilities in all special flood hazard areas, permitted under R.C. Chapter 3734.

(B) Water and wastewater systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

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

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

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

## (C) Subdivisions and large developments.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in this chapter;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

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

(5) The applicant shall meet the requirement to submit technical data to FEMA in § 152.23(A)(1)(d) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by division (4) above.

## (D) Residential structures.

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

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

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

(4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

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

(a) Be used only for the parking of vehicles, building access, or storage;

(b) Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or

(c) Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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

(7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure

and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of this division (D).

(8) In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(E) Nonresidential structures.

(1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of this section.

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

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

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

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

(3) In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

(F) Accessory structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:

(1) They shall not be used for human habitation;

(2) They shall be constructed of flood resistant materials;

(3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;

(4) They shall be firmly anchored to prevent flotation;

(5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and

(6) They shall meet the opening requirements of division (D) of this section.

(G) Recreational vehicles. Recreational vehicles must meet at least one of the following standards:

(1) They shall not be located on sites in special flood hazard areas for more than 180 days;

(2) They must be fully licensed and ready for highway use;  
or

(3) They must meet all standards of division (D) of this section.

(H) Above ground gas or liquid storage tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

(I) Assurance of flood carrying capacity. Pursuant to the purpose and methods of reducing flood damage stated in this chapter, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

(1) Development in floodways.

(a) In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or

(b) Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. Meet the requirements to submit technical data in § 152.23(A);

2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;

3. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;

4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and

5. Concurrence of the Mayor and the Chief Executive Officer of any other communities impacted by the proposed actions.

(2) Development in riverine areas with base flood elevations but no floodways.

(a) In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than one foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or

(b) Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;

2. Division (I) (1) (b) 1. and 3. through 5. of this section.

(3) Alterations of a watercourse. For the purpose of this chapter, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a federal, state, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

- (a) The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.

- (b) Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.

- (c) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the village specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

(d) The applicant shall meet the requirements to submit technical data in § 152.23(A)(1)(c) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.  
(Ord. 7-2007, passed 11-5-07)

§ 152.27 APPEALS AND VARIANCES.

(A) Appeals Board established.

(1) The Board of Zoning Appeals is hereby appointed to serve as the Appeals Board for this chapter as established by Village Code.

(2) Records of the Appeals Board shall be kept and filed in Village Hall, 27 Canal Street West, Navarre, Ohio 44662.

(B) Powers and duties.

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

(2) Authorize variances in accordance with division (D) of this section.

(C) Appeals.

(1) Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within 30 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

(2) Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

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

(1) Application for a variance.

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

(b) Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.

(c) All applications for a variance shall be accompanied by a variance application fee set in the schedule of fees adopted by the village.

(2) Public hearing.

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

1. The danger that materials may be swept onto other lands to the injury of others.

2. The danger to life and property due to flooding or erosion damage.

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

4. The importance of the services provided by the proposed facility to the community.

5. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.

6. The necessity to the facility of a waterfront location, where applicable.

7. The compatibility of the proposed use with existing and anticipated development.

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

9. The safety of access to the property in times of flood for ordinary and emergency vehicles.

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(b) Variances shall only be issued upon:

1. A showing of good and sufficient cause.

2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of this chapter does not constitute an exceptional hardship to the applicant.

3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this chapter; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.

4. A determination that the structure or other development is protected by methods to minimize flood damages.

5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(c) Upon consideration of the above factors and the purposes of this chapter, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this chapter.

(3) Other conditions for variances.

(a) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(b) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in division (D) (2) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(E) Procedure at hearings.

(1) All testimony shall be given under oath.

(2) A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.

(3) The applicant shall proceed first to present evidence and testimony *in* support of the appeal or variance.

(4) The administrator may present evidence or testimony *in* opposition to the appeal or variance.

(5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.

(6) Evidence that *is* not admitted may be proffered and shall become part of the record for appeal.

(7) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.

(8) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(F) Appeal to the court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Stark Court of Common Pleas, as provided in R.C. Chapter 2506.  
(Ord. 7-2007, passed 11-5-07)

#### **PROPERTY MAINTENANCE CODE**

##### General Provisions

#### **§ 153.01 PURPOSE AND INTENT.**

This chapter shall be known as the "Navarre Property Maintenance Code." The purpose of this chapter is to protect the public health, safety and general welfare by establishing minimum standards governing the exterior maintenance, condition and appearance of residential and nonresidential structures and premises; to fix responsibilities and duties upon owners and occupants of structures with respect to sanitation, repair and maintenance; and to fix penalties for violations of this Code.

(Ord. 8-2011, passed 10-3-11)

#### **§ 153.02 VALIDITY.**

(A) The provisions in this chapter shall not be construed to prevent the enforcement of other ordinances or regulation, which prescribe standards other than those prescribed herein. In the event of conflict between any provisions of this chapter and any provisions of any other ordinance, the more restrictive provisions shall prevail.

(B) If any section, subsection, paragraph, sentence, clause or phrase of this chapter shall be declared invalid for any reason

whatsoever, such decision shall not affect the remaining portions of this chapter which shall continue in full force and effect and to this end the provisions of this chapter are hereby declared to be severable. (Ord. 8-2011, passed 10-3-11)

§ 153.03 APPLICABILITY.

This chapter shall apply to all structures and premises within the village. (Ord. 8-2011, passed 10-3-11)

§ 153.04 DEFINITIONS.

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

"DETERIORATION." The condition or appearance of the exterior of the building or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect or lack of maintenance.

"EXTERIOR." Those portions of a building which are exposed to public view and the open space of any premises outside of any building.

"GARBAGE." Animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

"INFESTATION." The presence of insects, rodents, vermin or other pests on the premises, which constitute a health hazard.

"NUISANCE." That which is defined by the statutes of the State of Ohio and the village, and declared thereby to be a nuisance.

"OCCUPANT." Any person living and sleeping in a dwelling unit or having actual possession of the dwelling unit or any person who leases or rents a nonresidential building, structure or any portion thereof.

"OWNER." Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without the accompanying actual possession thereof, or shall have charge, care or control as owner or agent of the owner, or as executor, administrator, trustee, receiver or guardian of the estate, or as a mortgagee in possession.

"PERSON." Includes any individual, corporation, association, partnership, trustee, lessee, agent, or assignee.

"PREMISES." A lot, plot or parcel of land, including the buildings or structures thereon.

"PROPERTY MAINTENANCE OFFICER." The Zoning Inspector of the village or his or her duly assigned representative.

"REFUSE." All putrescible and non-putrescible solid waste (except body wastes) including but not limited to garbage, rubbish, ashes, dead animals and industrial wastes; and accumulation of brush, broken glass,

stumps and roots that present a safety hazard and includes garbage, trash and debris which present an unsanitary and/or safety hazard.

"RUBBISH." Non-putrescible solid waste consisting of both combustible and non-combustible wastes such as paper, wrappings, tin cans, yard clippings, leaves, wood, glass, crockery, plastics and similar materials.

(Ord . 8-2011, passed 10-3-11)

§ 153.04 MAINTENANCE RESPONSIBILITY.

(A) No owner, agent or occupant of any premises shall maintain or permit to be maintained at or on the exterior property areas o such premises any condition which deteriorates or debases the appearance of the neighborhood; or creates a fire, safety or health hazard; or which is a public nuisance.

(B) The owner shall be responsible for ensuring that the premises are maintained in good repair and appearance in compliance with this chapter. Occupants shall be responsible for maintaining, in a clean and sanitary condition those premises, or portion thereof, which they occupy and/or control. In the case of commonly held properties associated with condominiums or similar projects, it shall be the responsibility of the designated homeowner's association ~~9r~~ similar organization to maintain those items that are under their direct ownership or control.

(Ord. 8-2011, passed 10-3-11) Penalty, see§ 153.99

§ 153.05 MAINTENANCE REQUIRED.

(A) All exterior parts of every dwelling structure and accessory structures, including decorative additions, chimneys, fences and all other exterior structures, either above or below the roof lien, shall be maintained in a safe condition, weather tight, and so as to resist decay or deterioration from any cause.

(B) Any dwelling structure or accessory structure whose exterior surface is deteriorated shall be repaired or razed.

(Ord. 8-2011, passed 10-3-11) Penalty, see§ 153.99

§ 153.06 INFESTATION.

All structures and the premises thereof shall be maintained free from vermin, rodents and other pests, and free of sources of breeding, harborage and infestation by such vermin, rodents and other pests.

(Ord. 8-2011, passed 10-3-11) Penalty, see§ 153.99

Exterior Property Areas

§ 153.10 PREMISES TO BE MAINTAINED.

No owner or occupant of any premises shall maintain or permit to be maintained at or on the exterior property areas of such premises any of the following:

(A) Broken or dilapidated fences, walls or other structures;

(B) Rugs, rags, or other materials hung on lines or in other places on the premises which materials are not being used for general household or housekeeping purposes;

(C) Broken, dilapidated or unusable furniture, mattresses or other household furniture, broken glass, plastic materials, paints, miscellaneous coverings, and/or any other material, including those described in this section, placed at or on the premises in such a manner as to be patently unsightly, grotesque or offensive to the senses.

(D) Any garbage of animal and vegetable waste resulting from handling, preparation, cooking or consumption of food.  
(Ord. 8-2011, passed 10-3-11) Penalty, see § 153.99

**§ 153.11 RANK VEGETATION.**

Lawns and landscaping on private property shall be kept from becoming overgrown and unsightly and shall be maintained so as not to constitute a blighting or deteriorating effect on the surrounding neighborhood.

(Ord. 8-2011, passed 10-3-11) Penalty, see § 153.99

**§ 153.12 DEAD TREES AND BRANCHES.**

No owner or occupant of any premises shall permit a dead tree to stand so near to a public sidewalk or roadway as to endanger users thereof, should all or part of it fall. No such owner or occupant shall permit a dead branch to overhang a public sidewalk or roadway.  
(Ord. 8-2011, passed 10-3-11) Penalty, see § 153.99

Administration and Enforcement

**§ 153.20 PROPERTY MAINTENANCE OFFICER.**

It shall be the responsibility and duty of the Property Maintenance Officer to enforce and administer the provisions of this chapter with the assistance of the Police Department as necessary  
(Ord. 8-2011, passed 10-3-11)

**§ 153.21 RESPONSIBILITIES OF OWNERS.**

Owners shall have the duties and responsibilities as prescribed in this chapter and no owner shall be relieved from any such duty and responsibility nor be entitled to defend against any charges of violation thereof by reason of the fact that the occupant is also responsible therefor and in violation thereof.  
(Ord. 8-2011, passed 10-3-11)

**§ 153.22 NOTICE OF VIOLATION.**

(A) Where a violation of this chapter is found to exist, a written notice from the Property Maintenance Officer shall be served upon the person or persons responsible for the corrections thereof. The notice shall specify the violation or violations committed and a reasonable period of time to correct or abate the violation.

(B) Service of the notice shall be certified mail addressed to the owner and/or occupant at his or her residence or to the tax mailing address as indicated by the records of the village or by delivery to the residence of the owner and/or occupant by delivery to the individuals at the premises.

(Ord. 8-2011, passed 10-3-11)

**§ 153.23 TIME EXTENSION FOR COMPLIANCE.**

Where the owner and/or occupant of a premises is unable to comply with a notice of violation within the time period specified, the owner, within two weeks of notice of nonconformance, may enter into an agreement with the Property Maintenance Officer detailing a program to abate non-conformance within a reasonable time limit.

(Ord. 8-2011, passed 10-3-11)

**§ 153.24 FAILURE TO COMPLY.**

Whenever the owner and/or occupant of a structure or premises fails, neglects, or refuses to comply with any notice of the Property Maintenance Officer within the time period specified in the notice, the Property Maintenance Officer shall proceed as provided by law.

(Ord. 8-2011, passed 10-3-11)

**§ 153.25 ABATEMENT OF VIOLATIONS.**

Where the owner and/or occupant of a structure or premises fails, neglects, or refuses to comply with any notice of violation of any of the provisions within the time period specified in the notice, the Property Maintenance Officer may cause such violation to be corrected, removed or abated. The Property Maintenance Officer may contract with a private person or firm to accomplish the task. The actual cost of bringing the property into compliance plus 15% for inspections and administration shall be billed to the owner. If the bill is not paid within 30 days after submission, then the Clerk of Council shall certify the costs together with a 10% penalty to the Stark County Auditor for placement on the tax duplicate to be collected as other taxes for return to the village.

(Ord. 8-2011, passed 10-3-11)

**§ 153.26 PROSECUTION OF VIOLATIONS.**

Where the owner and/or occupant of any premises fails to comply with a notice of violation of any of the provisions of this chapter, the owner and/or occupant shall be considered to be in violation of this chapter and the Property Maintenance Officer may proceed at law to compel compliance and to prosecute the violation.

(Ord. 8-2011, passed 10-3-11)

**§ 153.27 APPEALS.**

Any owner and/or occupant of any premises fails to comply with a notice of violation of any of the provisions of this chapter, the owner and/or occupant shall be considered to be in violation of this chapter and the Property Maintenance Officer may proceed at law to compel compliance and to prosecute the violation.

(Ord. 8-2011, passed 10-3-11)

§ 153.99 PENALTY.

Any person, firm or corporation or his or her or their agents who violates any provisions of this chapter or who fails or refuses to obey a lawful order of the Property Maintenance Officer or the Police Department issued pursuant to this chapter, is guilty of a minor misdemeanor for each offense. A separate offense shall be deemed committed each day during which a violation continues.  
(Ord. 8-2011, passed 10-3-11)

## SWEEPSTAKES TERMINAL/INTERNET CAFES

§ 154.01 TITLE, PURPOSE AND OBJECTIVES.

This chapter shall be known as the "Sweepstakes Terminal/Internet Caf ." The purpose of this Chapter is to protect the public health, safety, and general welfare by establishing minimum standards governing the licensure, regulation and control of computerized sweepstakes/internet devices and sweepstakes terminal/internet cafes and the premises upon which they operated. The objectives of this chapter are to prevent health, safety and fire hazards, disturbances, disruption of pedestrian traffic, disorderly assemblies, theft of property, gambling and truancy within the Village.  
(Ord. 3-2013, passed 2-18-13; Am. Ord. 4-2016, passed 2-15-16)

§ 154.02 CONSTRUCTION, SEPARABILITY AND APPLICABILITY OF CHAPTER.

(A) Construction. This chapter shall be liberally construed and applied to promote its purpose and objectives.

(B) Severability and Applicability. If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.  
(Ord. 3-2013, passed 2-18-13; Am. Ord. 4-2016, passed 2-15-16)

§ 154.03 DEFINITIONS.

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

"ALCOHOL." Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. Such term excludes denatured alcohol and wood alcohol.

"BEER." All beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.05%) or more, but no more than 12% of alcohol by volume.

"BOARD." The Board of Zoning Appeals for the Village of Navarre, Stark County, Ohio.

"COMPUTERIZED SWEEPSTAKES DEVICE/INTERNET DEVICE." Any computer, machine, game or apparatus which, upon the insertion of a coin, card, ticket, token or similar object, or upon payment of anything of value, wherein a product or service is provided, may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not registering a score, and which in no way tends to encourage gambling.

"INTOXICATING LIQUOR AND LIQUOR." All liquids and compounds, other than beer as defined herein, containing one half of one percent (0.05%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever named called and whether they are medicated, proprietary or patented. Such phrase includes wine as defined in R.C. § 4301.01 even if it contains less than 4% of alcohol by volume, mixed beverages as defined by R.C. § 4301.01 even if they contain less than 4% of alcohol by volume, cider, alcohol and all solids and confections which contain alcohol.

"LICENSEE." The person or persons who sign(s) an application for a license hereunder and to whom such license is issued.

"MAYOR." The Mayor of the Village of Navarre, Stark County, Ohio.

"OPERATOR." The person or persons having authority to control the premises of a sweepstakes terminal/internet cafe.

"OWNER." Any person who possesses a pecuniary interest, either directly or indirectly, of 25% or more in a sweepstakes terminal/internet cafe.

"PERSON." Any natural person, firm, partnership, joint venture, association, limited liability company, corporation or any other form of business organization.

"PREMISES." The building, structure, facility or portion thereof, used for conducting the operation of a sweepstakes terminal/internet cafe.

"SCHOOL." Any educational institution, public, private, secular or parochial, which offers instruction of high school grade or lower.

"SWEEPSTAKES TERMINAL/INTERNET Cafe." Any individual premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises have other business purposes of any nature whatsoever.

(Ord . 3-2013, passed 2-18-13; Am. Ord. 4-2016, passed 2-15-16)

§ 154.04 COMPUTERIZED SWEEPSTAKES DEVICE/INTERNET DEVICE LICENSE REQUIRED.

No person shall display for purpose of use any computerized sweepstakes device/internet device in the village without having first obtained a license therefore as provided in this chapter, which license shall be designated as a computerized sweepstakes/internet cafe license. A separate license is required for each such computerized sweepstakes device/internet device.

(Ord . 3-2013, passed 2-18-13; Arn. Ord. 4-2016, passed 2-15-16)