

ORDINANCE 04-10

An ordinance to regulate and restrict the location of buildings and other structures, and of premises to be used for trade, industry, residence or other specified uses to regulate and limit the height and area of buildings and other structures hereafter erected or altered to regulate and determine setback building lines and the area of yards, courts and other open spaces; and for said purposes to divide the Village into districts of such number, shape and area as are penalties for the violation of the provisions and to provide for its endorsement; and to create administrative bodies necessary to administer this Ordinance.

Whereas, there has been created by ordinance and appointment under and by virtue of Section 713.01.R.C. of the General Code of Ohio, a Zoning Committee of the Village of Burbank, Ohio, and;

Whereas said Zoning Committee has certified to the Council of the Village of Burbank, Ohio, a plan for the zoning of the municipality according to the uses of premises, buildings and other structures and;

Whereas, the Council of the Village of Burbank, Ohio, deems it necessary in the interest of the public health, safety, convenience, comfort, morals, prosperity and general welfare, to provide for the orderly growth and development of the community by districting or zoning the Village and regulating and restricting the size, location, and use of land, buildings and other structures for trade, industry, residence and other purposes; Now, Therefore,

Be it ordained by the Council of the Village of Burbank, State of Ohio.

BURBANK VILLAGE ZONING ORDINANCE

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BURBANK VILLAGE ZONING ORDINANCE

ARTICLE I

TITLE, AUTHORIZATION, PURPOSE, AND ENACTMENT CLAUSE

SECTION 101 TITLES

This Ordinance shall be known as the “Zoning Ordinance of Burbank, Ohio” and repeals any other ordinances of the Village of Burbank or parts whereof, in conflict herewith.

SECTION 102 AUTHORIZATIONS

This Ordinance is authorized by the Ohio Constitution and Revised Code.

SECTION 103 PURPOSES

This ordinance is enacted to promote public health, safety, convenience, comfort, prosperity, and general welfare by:

- A. Encouraging and facilitating orderly, efficient, and appropriate growth and development.
- B. Establishing population densities to prevent or reduce congestion and to secure economy in the cost of providing water supply and sewerage systems, streets and highways, fire and police protection, schools, parks and recreational facilities, and other governmental services.
- C. Dividing the incorporated areas of the Village into districts or zones.
- D. Regulating the location, height, number of stories and size of building and other structures, including but not limited to tents, cabins, and trailer coaches.
- E. Securing safety from fire, floods, traffic hazards, and other damages.
- F. Protecting the tax base.
- G. Fostering well planned industrial and commercial growth.
- H. Stabilizing and improving property values.
- I. Protecting developments from the detrimental effects of incompatible surrounding uses.

SECTION 104 ENACTMENT CLAUSES

Whereas, there has been created under and by virtue of the laws of the State of Ohio, the Zoning Committee for Burbank Ohio and; Whereas, said Zoning Committee has submitted to the Village Council of Burbank, Ohio, a plan for the zoning of the community according to the uses of premises, buildings, and other structures; Now, therefore, Be it ordained, that the Zoning Map and text contained herein is hereby adopted.

SECTION 105 EFFECTIVE DATE

This Ordinance is effective on December 2, 2004

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ARTICLE II

INTERPRETATION

SECTION 201 INTERPRETATIONS OF PROVISIONS

In interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposed a greater restriction than is imposed or required by other provisions of law, rules, regulations, or resolution, or by private deed restrictions or covenants, the provision of this Ordinance shall prevail.

SECTION 202 VALIDITY AND SEPARABILITY

It is hereby declared to be the legislative intent that, if any provision or provisions of this Ordinance, or the application thereof to any zoning lot, building, or other structure, or tract of land, are declared by a court of competent jurisdiction to be invalid or ineffective in whole or in part, or to be inapplicable to any person or situation, the effect of such decision should be limited to the provision or provisions which are expressly stated in the decision to be invalid or ineffective to the zoning lot, building, or other structure, or tract of land immediately involved in the controversy. All other provisions of this Ordinance shall continue to be separate and fully effective, and the application of any such provision to other persons or situations shall not be affected.

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ARTICLE III

GENERAL REGULATIONS

SECTION 301 PURPOSES

General regulations apply to all Zoning Districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

SECTION 302 PERMITTED USES

- 302.01 No building shall be erected, reconstructed, enlarged, or structurally altered, or moved, in such manner as to evade conformity with height, area, yard, lot area, and other regulations for the district wherein such building is located.
- 302.02 No building or land shall be used or intended for any use other than those permitted in the district wherein such building or land is located.
- 302.03 Every building hereafter erected, reconstructed, enlarged, structurally altered, or moved shall be located on a lot as herein defined, and in no case shall there be more than one (1) principal building on one (1) lot. These limitations shall apply only to one-family and two-family dwellings.
- 302.04 The Board of Zoning Appeals, with the approval of Council, shall have the power to permit any use comparable in character to any of the uses specifically listed under the permitted or conditionally permitted uses section of any district.
- 302.05 Uses which are omitted from this Ordinance as not being specifically permitted shall be considered prohibited until the Ordinance is amended to specifically include the use.

SECTION 303 REGULATIONS OF LOTS

303.01 Lot Area

No parcel of land shall hereafter be so reduced or divided as to provide less than the minimum lot size required in the zoning district in which it is situated, except as otherwise permitted in the Ordinance.

303.02 Substandard Lots

A parcel of land which contains no residential structure and which was a lot of record on the plat records of the County Recorder at the time of the adoption of the Ordinance and which fails to meet the size and area requirements of this Ordinance for residential structures, may nevertheless be used as a site for a residence. The residence on such parcel, either alone or when combined with all or part of an adjoining parcel, shall comply with the front, rear, and side yard setbacks required in that district.

When any parcel of land containing a residence complies with the area, setback and frontage requirements of this Ordinance by virtue of the fact that there are other vacant parcels of land adjacent or adjoining it and standing in common ownership, then such parcel of land and such adjoining or adjacent parcels, or as much land as may be required to meet the current area, setback and frontage provisions of the Ordinance shall be considered to be a single residential lot. No property owner shall sell or convey a parcel of land which is substandard in size and contains a residential structure without also selling or conveying such vacant, adjoining or adjacent parcels of land standing in common ownership, nor shall he sell or convey any part of his property if, by so doing, he reduces the total area, the frontage or the setback lines that are required by the provisions of this Ordinance.

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303.03 Street Frontage

No principal building shall be erected on a lot which does not abut on at least one street. Lots abutted by two or more streets shall meet the required frontage on each street, which is 85 ft. for both streets.

SECTION 304 GENERAL REGULATIONS OF YARDS

304.01 Open Area

Except as herein provided, every yard shall be open and unobstructed and shall not be reduced or diminished in area so as to be smaller than prescribed by this Ordinance. No required yard or other open space around one building shall be considered as a yard or open space for any other building, and no required yard or other required open space on an adjoining lot shall be considered as providing the yard or open space on the lot whereon a building is to be created or established.

304.02 Yard Measurements

- A. The minimum front yard depth shall be measured on the perpendicular from the street right-of-way line to the minimum building set back line. All front and side street yards shall be measured from the right-of-way lines so established.
- B. The minimum side yard width and rear yard depth shall be measured on the perpendicular from the lot lines to the nearest point of any building on the lot.

304.03 Visibility at Intersections

On a corner lot in any district, nothing shall be erected, placed, planted , or allowed to grow in such a manner as to materially impede vision three vertical ft. above the established street grade of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining points along said street lines thirty ft. from the point of intersection.

304.04 Fences and Walls

In all districts, fences and walls may be constructed to a maximum height of six (6) ft. in any required side or rear yard, and to a height of four (4) ft. in any required yard abutting a street subject to Section 304.03. Fences or walls required to surround and enclose public utility installations are not limited as to height in any zoning district. The Board of Zoning Appeals may require higher fences or walls in a commercial or industrial district in cases where such higher screening is necessary.

304.05 Trash

The storage of any item or items no longer usable that would tend to cause the attraction of any type of animal or person shall not be permitted on any private property. Any garbage, rubbish and refuse must be removed from the premises at least once per week. Trash must be stored in a suitable container in a manner as not to be unsightly.

304.06 Excessive Plant Growth ADDED Feb. 7, 2006 Also see Section 309

A. Prohibited Growth

No grass, weeds, underbrush or other plant growth shall be permitted on any lot within the Village in a height in excess of eight (8) inches. Any such vegetative growth is hereby declared to be a public nuisance subject to abatement by action of the Village. Prohibitive plant growth hereunder shall not include trees, ornamental shrubs, cultivated flowers or gardens.

B. Notice to Cut

Upon notice to the Village that vegetation growth on a lot within the Village exceeds the limitations set

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forth in the preceding paragraph, the Mayor, Zoning Inspector or any law enforcement officer acting on behalf of the Village shall cause notice to be given to the owner, agent, tenant, or other occupant having charge of such land that the same must be cut and removed from the lot within a specific number of days to be designated by the Village Official giving said notice to the owner, agent, tenant or other occupant. The notice may be served by any of the following methods: Sending the same by Certified U.S. Mail to such owner, agent, tenant, or occupant, personal delivery of the notice to such party, or posting the property with a notice by affixing the notice to a building, stake, tree, or fence located on the property.

C. Failure to Cut

If the owner, agent, tenant, or other occupant having charge of such land fails to comply with the Notice to Cut, the Village may cause the vegetative growth to be cut and removed from the lot and may employ or contract for the necessary labor to perform such work or cause it to be done by an appropriate Village employee.

D. Collection of Costs

All expenses incurred for cutting and removing such vegetative growth together with an administrative charge of fifty dollars (\$50.00) shall be billed to the owner, agent, tenant, or other occupant having charge of such land at such party's last known address. If, after thirty (30) days, such amount remains unpaid, the Mayor shall certify the total amount of the expenses and administrative charge, the name(s) of the owner of the land and a sufficient description of the premises to the Wayne County Auditor, so that the same may be entered on a tax duplicate and be a lien on the land from the date of entry and collected in the same manner as other taxes and assessments and returned to the Village pursuant to Sections 715.261 and 731.54 of the Ohio Revised Code.

SECTION 305 BUILDING HEIGHTS

No structure shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit hereinafter established for the zoning district in which the structure is located except as provided in Article VIII.

SECTION 306 GENERAL PROVISIONS OF STRUCTURES AND CONSTRUCTION

306.01 Required Compliance

No building shall be erected, converted, enlarged, reconstructed, or structurally altered to:

- A. exceed the maximum height.
- B. accommodate a prohibited use, or house a greater number of families.
- C. have narrower or smaller rear, front, or side yards than are specified herein for the district in which such building is located.

306.02 Accessory Building

- A. No accessory building shall be erected in any front yard.
- B. Accessory buildings may be built in a required rear yard or side yard; not nearer to a rear or side lot line than the rear or side yard requirement for such lot.

306.03 Building Under Construction Prior to the Ordinance

Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or designated use of any building upon which actual construction, or designated uses of any building upon which actual construction was lawfully begun prior to the adoption of this Ordinance and provided further that such buildings shall be completed within one (1) year from the date of passage of this Ordinance.

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306.04 Temporary Buildings

Temporary buildings constructed for uses incidental to construction work shall be permitted, provided such buildings shall not be continued as permanent structures after construction has been completed.

306.05 Grading and Seeding

Proper grading and seeding from the street pavement shall be required of all residential, commercial, and industrial lots. In the case of a grade of greater than one (1) foot for twenty-five (25) ft. of distance from existing pavement, a suitable drain shall be provided, subject to approval by the Board of Zoning Appeals.

306.06 Temporary Parking

- A. Immediate off-street parking facilities shall be installed within twenty-four (24) hours, after foundation or footer digging has been completed.
- B. Temporary parking facilities shall not require hard surface or permanent material, but may consist of gravel, stone, or other suitable material, which may be later used as base for a permanent driveway, or may be later removed.
- C. Such temporary parking facilities may be located at any suitable place within the side-line and back-line setback of the property, and shall not interfere with the natural drainage nor be injurious to adjacent property owners.

306.07 Restoring Unsafe Buildings

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of structures or part thereof declared unsafe by the Zoning Inspector.

SECTION 307 SITE PLAN REVIEW AND CONFORMANCE

307.01 All applications for Zoning in commercial and industrial districts require a site plan as well as any conditional use or multi-family dwelling units in the residential districts. Site plans shall be prepared by a registered engineer and/or architect. Review and approval of the site plans shall be made by the Board of Zoning Appeals. The Board of Zoning Appeals shall approve the site plan if it is consistent with the purposes and general requirements of this Ordinance, the specific requirements set forth in Article IV, and the following general standards. The Board of Zoning Appeals may seek expert advice or cause special studies to be made, the cost of which shall be borne by the applicant. The cost shall be deposited with the Village Clerk upon request of the Board. The formal application shall include the following:

- A. The site plan shall be drawn to a legible scale, shall show topographical features of the lot, building placement, and description of the proposed development or operation shall be provided in sufficient detail to indicate possible emission of energy of matter beyond the lot lines, with plans for the handling of any excesses thereof.
- B. The site plan shall show that a proper relationship will exist between thoroughfares, service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety on both public and private lands.
- C. All the development features including the principal buildings, open spaces, service roads, driveways, and parking areas shall be so located and related as to minimize the possibility of the adverse effects upon adjacent development.
- D. The architectural design of buildings shall be developed with consideration given to the relationship of adjacent development in terms of building height, mass, texture, materials line and pattern, and character.

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- E. Building location and placement shall be developed with consideration given to minimizing removal of trees and/or changing topography.
- F. Proper design and use of building materials and landscaping shall be provided to ensure the maximum possible visual and auditory privacy for surrounding properties and occupants.
- G. In large parking areas, visual relief shall be provided through the use of planted trees and landscaped dividers, island, and walkways.
- H. Screening of parking areas and service areas from surrounding properties shall be provided through landscaping and/or walls or fences where necessary to promote harmony with adjacent property owners.
- I. On-site traffic control shall be designed to make possible adequate fire and police protection.
- J. In the case of industrial uses, adequate provision shall be made for the disposal of industrial waste. Waste containing poisonous, corrosive, flammable, explosive, or otherwise hazardous solids, oil, liquid or gases shall not be discharged into the sanitary or storm sewers. Waste areas shall be adequately screened by solid fencing capable of being secured against unauthorized entry.
- K. Parking and loading provisions shall meet the requirement of Article V.
- L. Grading and surface drainage provisions shall be designed to minimize adverse effects on abutting properties, streams, and public streets and to minimize the possibility of erosion. The Board may require that such grading plans be reviewed by the Village engineer with any costs borne by the developer. The costs of any unusual means necessary to alleviate surface drainage problems on adjacent property due to the development shall be borne by the developer of the property causing the problem.
- M. Private streets, driveways, and parking areas shall be permitted in the Village of Burbank.

307.02 Procedure

Applications for site plan review shall be submitted to the Board of Zoning Appeals for review. Site plans shall be reviewed by the Board of Zoning Appeals at one or more of its public meetings. Within thirty (30) days after the first meeting at which the site plan is reviewed, the Board of Zoning Appeals shall approve, approve with modifications, or disapprove the site plan.

307.03 Conformance With Site Plan

- A. The use, placement, and dimensions of all buildings, driveways, sidewalks, parking areas, truck loading and unloading areas, curb cuts, traffic control devices, unloading areas, activity areas, and the installation of landscaping, fences, and walls shall conform to the approved site plan. No injurious or offensive effects shall result from the development of operations; and control of effects such as noise, smoke, dust, fumes, odors, electrical interferences, storage and disposal of water, shall meet accepted current standards, when such standards are in effect.
- B. A performance bond or other financial guarantee shall be placed on deposit with the Village Clerk to insure that landscaping is installed, that the hard-surfacing of the private drive and parking area is installed, and that the surface water drainage is installed, all in conformance with approved plans. Such bond or guarantee shall be in an amount or equal to the cost of the construction of the improvements based on an estimate approved by the Board of Zoning Appeals and shall be for a period not to exceed one (1) year, and providing for the completion of construction within that period.

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SECTION 308 SWIMMING POOLS

All public or private, commercial or family, in ground or above ground, swimming, wading or other pools containing over three (3) ft. of water in depth shall require building and zoning permits.

- 308.01 Such swimming pools shall not be located in front or side yards and shall be located at least ten feet (10') from side and rear property lines.
- 308.02 Construction, plumbing, electrical requirements, inspection and safety facilities shall be regulated by the Village of Burbank in the same manner as any other structure is regulated by the Village of Burbank.
- 308.03 Every pool shall be completely surrounded by a fence of wall not less than four (4) ft. in height; such fence shall be constructed so as to have no openings, holes, or gaps larger than three (3) inches in any dimension, except with suitable locking devices to prevent intrusion.
- 308.04 An accessory building may be incorporated in or as part of such enclosure.
- 308.05 Pools above ground having vertical surfaces of at least four (4) ft. in height shall have fences and gates only where access, such as a stairway or ladder may be had to the pool.

SECTION 309 NUISANCES

- 309.01 No poultry or livestock is to be kept on said premises. No unsafe, deteriorating or discarded objects shall be permitted, erected or placed or suffered to remain on said premises, nor shall the premises be used in any way or for any purpose, which may endanger the health or unreasonably disturb the peace and quiet of adjoining premises.
- 309.02 No grass, leaves, dirt or anything else that would block up the storm sewers shall be swept into the streets.

SECTION 310 DRIVEWAYS AND SIDEWALKS

- 310.01 Driveways shall be constructed of gravel, stone, asphalt or concrete. Asphalt driveways shall have a compacted fill, have at least two (2) inches base material and at least one (1) inch top material. Concrete driveways shall have a compacted fill not less than five (5) inches thick utilizing six (6)-sack concrete. Driveways shall be mandatory for all new construction of homes and the sidewalk and apron areas of the driveway shall be six (6) inches thick regardless of material used.
- 310.02 Sidewalks shall be constructed of concrete only and shall have a minimum thickness of four (4) inches, a minimum width of four (4) ft., and shall correspond to established street grade requirements in accordance with standards approved by the Village of Burbank. Sidewalks shall be mandatory for all new construction in any area that adjoins a sidewalk.
- 310.03 Driveways shall be a minimum of nine (9) ft. in width, shall be located a minimum of two (2) ft. from side lot lines, and shall extend from the street to the garage.
- 310.04 Common driveways serving two or more dwellings shall not be permitted.

SECTION 311 ANNEXATIONS

Upon receipt of petition for Annexation by owners pursuant to Ohio Revised Code chapter 709, the Clerk shall refer the petition to the Village Board of Zoning Appeals. Within sixty (60) days from receipt of the petition, the Board of Zoning Appeals shall make a recommendation with regard to the petition to Village Council. Village Council shall thereafter accept or reject the petition for Annexation and proceed in accordance with Chapter 709 of the Ohio Revised Code.

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SECTION 312 ESTABLISHMENT OF DISTRICTS

- 312.01 To divide the Village into the Districts deemed best suited to carry out the purpose of this Ordinance.
- 312.02 To prohibit uses or buildings incompatible with the character of such districts.
- 312.03 To regulate and limit the height, area, and uses of buildings hereafter to be erected.
- 312.04 To prevent the enlarging or alteration of existing buildings in such manner as to evade the restrictions and limitations lawfully imposed by Section 300, Building Code.
- 312.05 To regulate and determine minimum areas for open spaces adjacent to buildings.
- 312.06 To regulate and limit density of development; the following Zoning Districts are hereby established:
- A. Residential District
 - B. Commercial District
 - C. Industrial District

SECTION 313 ZONING DISTRICT MAP

The zoning districts established in Section 312 are bound and defined as shown on a map entitled "Zoning Districts Map of Burbank, Ohio," and said map with all notations, references, and other pertinent material shown thereon is incorporated herein as part of this Ordinance.

SECTION 314 INTERPRETATIONS OF DISTRICT BOUNDARIES

314.01 Where Boundaries Approximately Follow Streets

Where zoning district boundaries are indicated as approximately following the centerline of streets, such lines shall be construed to be the zoning district boundaries.

314.02 Where Boundaries Approximately Follow Lot Lines

Where zoning district boundaries are indicated as approximately following lot lines, these lot lines shall be construed to be the zoning district boundaries.

314.03 Where Boundaries Parallel Street Lines

Where zoning district boundaries are indicated as approximately parallel to the center lines of streets, such district boundaries shall be construed as being parallel to such lines.

SECTION 315 REGULATIONS FOR PONDS OR LAKES

- 315.01 Public or private ponds or lakes containing over one and one half (1-½) ft. of water depth shall be considered as structures for the purpose of permits, and shall conform to all required setback lines.
- 315.02 In no case shall a pond or lake be located closer than twenty-five (25) ft. from a main building, nor twenty-five (25) ft. from side or rear property lines.
- 315.03 Ponds or lakes shall meet standards and specifications of the Wayne County Soil Conservation District and/or Chapter 1521 of the Ohio Revised Code.

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315.04 Upon making application for a zoning permit, the applicant will be required to submit to the zoning inspector a copy of the proposed pond and/or lake plans, which have been reviewed and stamped by the Wayne County Soil and Water Conservation District.

SECTION 316 BED AND BREAKFAST INNS

316.01 Purpose

Bed and breakfast inns are unique, semi-commercial operations that adapt a residential environment into a lodging concept limited in scope and operation. The regulations presented here provide a systematic set of requirements to ensure that such operation, if appropriate for a residential or commercial area, shall not adversely impact adjacent uses as a result of the commercial aspects of the structure and property. Bed and breakfast inns shall be subordinate to the principal use of a single-family dwelling. The intent is not to provide an opportunity for the establishment of an intensive commercial lodging business which would be considered appropriate within an intensive commercial, or highway commercial zoning district.

316.02 Definition

A “bed and breakfast inn” means an owner occupied residential, single family, detached structure wherein lodging and meals only are provided to transient guests for compensation. The provision of lodging and meals shall be subordinate to the principal use of the structure.

316.03 Conditional Use Permit Required

A bed and breakfast inn is classified as a conditional use in those zoning districts where noted in the Zoning Code. The corresponding standards and requirements of Article VII thereby apply. Such conditional use permit shall be voided upon a change of ownership of the property. In submitting an application for conditional use permit, the applicant shall provide to the Board of Zoning Appeals a floor plan illustrating the proposed operation, a site plan indicating all on-site improvements, and any additional information required by the Board of Zoning Appeals.

316.04 Development Standards

The following development standards apply to bed and breakfast inns that are conditional uses:

Guest rooms - A bed and breakfast inn shall have no more than four (4) guest rooms if located within a residential district, nor more than eight (8) guest rooms within a local commercial district. Each guest room shall contain no less than one hundred (100) sq. ft. of living space, not including closets, for two (2) guests, and thirty (30) sq. ft. per additional guest up to a total of four (4) guests per room.

- A. Parking - One (1) off-street parking space shall be provided per guest room and one (1) off-street parking space for the dwelling unit. Such off-street parking spaces shall not be provided in any front yard.
- B. Signage - One (1) on premises sign shall be permitted per bed and breakfast inn not to exceed five (5) sq. ft. in area. The sign shall not be illuminated and may have no more than three (3) colors. Signs may not be placed in any minimum setback areas and applicable standards of Article VI shall apply unless otherwise superseded by this section.

316.05 General Development Standards

- A. Single family detached dwelling - bed and breakfast inns shall only be permitted with a conditional use permit in single-family detached dwellings.

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- B. Owner/Operator - The owner/operator of the bed and breakfast inn shall live full time on the inn's premises. Such owner/operator shall be the record owner of no less than fifty percent (50%) interest of the property in question.
- C. Design Review - All new construction and exterior alterations associated with the bed and breakfast inn, including nonstructural improvements, shall be reviewed by and require the approval of the Board of Zoning Appeals. All such improvements shall be completed prior to issuance of an occupancy permit.
- D. Certificate of Required Officers - Certificates of Fire, Building, Zoning and Health Officers shall be required per conditional use permit requesting approval for a bed and breakfast inn. Each guest room shall contain a separate installed smoke detector alarm approved by the Fire Officer. No premises shall be utilized for a bed and breakfast inn unless there at least two (2) separate exits to the outdoors.
- E. Meals - Meals shall be served only to registered guests of the bed and breakfast inn and the bed and breakfast inn's owners and employees. The sale and consumption of alcoholic beverages to paying guests is strictly prohibited.
- F. Consecutive Nights - Each paying guest may stay at a bed and breakfast inn for not more than fourteen (14) consecutive nights at any single visit or more than a total of twenty-eight (28) nights in any given calendar year.
- G. Kitchen Facilities - Only one (1) kitchen facility shall be permitted per structure for which a conditional use permit is granted to operate a bed and breakfast inn. No cooking facilities shall be permitted in individual guest quarters.
- H. Bathrooms - A minimum of one (1) full bathroom, including shower, toilet and sink, shall be required for every two (2) guest rooms to be available for the exclusive use of bed and breakfast paying guests. Bed and breakfast inns shall be served by public sanitary sewer.
- I. Guest Register - A guest register listing the name, address and phone number of all paying guests shall be maintained by the owner/manager and shall be made available for inspection by Village Officials.
- J. Special Gatherings - Rental of the bed and breakfast inn for special gatherings such as wedding receptions and parties shall be prohibited in all residential zoning districts or properties adjacent to a residential zoning district.
- K. Public Nuisance - Bed and breakfast inns shall not be permitted and a conditional use permit shall be revoked or suspended whenever the operation endangers, offends or interferes with the safety or rights of others so as to constitute a nuisance.

SECTION 317 CLUSTER HOMES

317.01 Purpose

- A. The purpose of the cluster home subdivision is to permit a procedure for alternative residential development which will:
 - 1. Promote imaginative, well designed subdivisions and assure that the best possible relationship between development and the land is achieved through diversity and originality in lot layout; and
 - 2. Preserve desirable and proper open space for recreational, scenic and/or public service purposes, and other purposes related thereto, and ensure that the suitability of common open space, intended for scenic value and purposes is determined by its visibility from a significant number of units or buildings or length of public or private streets; and

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3. Preserve the physical qualities of the land while preserving natural resources such as trees, ravines and natural landscaping; and
 4. Ensure that the individual lots, buildings, units and parking areas are arranged and situated to relate to surrounding properties, to improve the view from and the view of the buildings, to lessen the land area devoted to motor vehicles access, and to avoid the adverse effects of shadows, noise and traffic on the residents of the cluster home subdivision or adjacent residents.
- B. To achieve these goals:
1. A variety of architectural styles will be encouraged.
 2. In each residential district, lot width, lot coverage and yard requirements may be modified on individual lots or building sites and zero lot line and/or footprint lots shall be permitted to reflect sites in a group of one, two, three, but not more than four dwellings designated and developed as a unit coordinated with the surrounding area and terrain.
 3. The group of single family dwellings as permitted by the given Zoning District shall be allowed if the difference between the lot area requirements of the district and the areas of the lots created is designated as common open space by covenants to be permanently in effect and binding upon the owners of each dwelling unit within the cluster home subdivision.
 4. Common open space shall be preserved and maintained for its scenic value for recreation or conservation purposes, or related uses. Common open space shall be made available for the use of all residents of the cluster home subdivision unless the Board of Zoning Appeals finds that the size, location, type of development or maintenance of such common open space would make use of such space undesirable or unnecessary.
 5. A cluster home subdivision plan shall be prepared and reviewed in accordance with Zoning Code Article VII. If the Board of Zoning Appeals does not approve the preliminary or final plat of a cluster home subdivision, conditional use approval of the cluster home concept is also revoked.

317.02 Land Areas: Density

- A. The minimum land area required for a cluster home subdivision shall be ten (10) acres, and a cluster home subdivision is specifically distinguished from a planned unit development.
- B. There shall be no more than three (3) dwelling units per acre in Residential Districts.

317.03 Permitted Dwelling Types

In Residential Districts:

1. Single-family detached dwellings and cluster homes with a minimum of 1,200 sq. ft. of living space per dwelling shall be permitted only.
2. Each dwelling shall have a minimum of a one-car attached garage per unit.

317.04 Required Open Space

The total public and/or common open space shall not be less than the following minimum percentages of the gross area of the entire development:

In Residential Districts, thirty percent (30%) open space/common area.

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Public and common areas shall be exclusive of all public right-of-way, private streets, parking lots, driveways, dwellings and non-recreational buildings.

317.05 Minimum Lot Area

The minimum size of a lot of record within a cluster home subdivision may be reduced to not less than 3,000 sq. ft. per unit in Residential Districts, provided that the Board of Zoning Appeals may approve smaller lot sizes no smaller than the actual footprint of a dwelling unit containing and meeting the minimum square footage requirements in a given district, if the entire development otherwise complies with the density requirements of the applicable Zoning District and the open space requirements mentioned above have been met and dedicated to the homeowners association.

317.06 Lot Width, Coverage and Yard Requirements

- A. Although modification and variation of lot width, lot coverage and yard requirements may be permitted by the Board of Zoning Appeals, in no case shall any lot have less than twenty-five (25) ft. of frontage on a public or private street except for:
1. common open space lots which are not required to have any frontage on a public or private street but must provide for pedestrian easements or access to them; or
 2. lots which have such access by easement over commonly owned areas such as to individual footprints for individual dwelling units. Such modification and variation must be shown on any cluster home subdivision plan and approved by the Board of Zoning Appeals.
- B. Such group of attached dwelling shall be considered as one building for the purpose of determining front, side, and rear yard requirements, with the understanding that the minimum side line setbacks between individual units shall be twenty (20) ft. and the minimum setback from adjacent land shall be a minimum of twenty (20) ft. with appropriate landscaping buffers in the form of trees, fences, and/or mounding to insure harmony with the surrounding area. Such modification and variation must be shown on any cluster home subdivision plan and approved by the Board of Zoning Appeals.
- C. There shall be a minimum of eight-five (85) ft. between the nearest cluster home dwelling unit to any lot line of an adjoining residential lot, which is not part of a cluster home subdivision.

317.07 Cluster Home Subdivision Approval

- A. To receive approval of a cluster home subdivision, the applicant must present evidence to the Board of Zoning Appeals that establishes the following:
1. That the proposed building or use complies with all applicable regulations of the Burbank Village Zoning Code and Subdivision Regulations.
 2. That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety and general welfare. That the density does not exceed the district's requirement in which the cluster home subdivision is being built.
 3. That the proposed cluster home development will be constructed arranged and operated so as not to interfere with the development and use of neighboring property, and to minimize the impact on any adjacent property, in accordance with the applicable zoning district regulations.
 4. That the proposed cluster home development will be served adequately by parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers; or that the persons or agencies responsible for the establishment of the proposed use will provide adequate areas for such services to be provided.

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5. That the proposed cluster home development will not result in the destruction, loss or damage to any natural, scenic or historic feature of significant importance to the land, and will attempt to preserve all natural assets.
- B. When acting on a proposed cluster home subdivision plan, the Board of Zoning Appeals shall give particular consideration to the following criteria:
1. That individual lots, buildings, streets and parking areas will be designed and situated to minimize alteration of the natural site features to be preserved, such as, but not limited to, ravines, stream beds, lakes, significant stands of trees, individual trees of significant size and rock outcroppings.
 2. That usability of common open space intended for a recreation or public use will be determined by the size, shape, topographic, and location requirements of the particular purpose proposed for the site.
 3. That the common open space will include irreplaceable natural features located in the tract, such as, but not limited to, ravines, stream beds, lakes, significant stands of trees, individual trees of significant size and rock outcroppings.
 4. That common open space for a recreation or public use will be easily accessible to pedestrians, which accessibility shall meet the needs of the handicapped and elderly and any persons contemplated to occupy the individual units.

SECTION 318 FLOOD PLAIN REGULATIONS

Areas in the flood plain or of special flood hazard within the Village are governed by Ordinance No. 2008-07, the Special Purpose Flood Damage Reduction Ordinance of the Village.

ARTICLE IV

DISTRICT REGULATIONS

SECTION 401 RESIDENTIAL DISTRICT

401.01 Purpose

This district is established to provide for one-family residential use at a density of about three (3) dwelling units per acre. This is the density intended to prevent:

- A. Excessive demands on sewerage or water systems;
- B. Congestion of traffic on streets and highways;
- C. Overloading the capacity of schools and other community facilities.

The Residential District is intended to provide suitable locations for future development in the Village at typical densities for suburban residential areas. These areas should be located on the outskirts of the Village.

401.02 Uses

A. Permitted Uses

- 1. One-family and two-family dwellings.
- 2. Accessory buildings incidental to the principle use, which do not include any activity conducted as a business.
- 3. Parking and loading as regulated by Article V.
- 4. Signage as regulated in Article VI.

B. Conditionally Permitted Uses

- 1. Government owned or operated parks, buildings or facilities.
- 2. Cemetery.
- 3. Church.
- 4. Cluster homes subject to Section 319.

All of the conditionally approved uses in this section are subject to the applicable provisions of Section 704 and the Subsections of 705.

C. Non-Permitted Uses

No mobile home or mobile home parks are permitted in any district. No removed mobile home shall be replaced with another mobile home.

401.03 Area and Height Regulations

- A. Minimum front yard set back from road right of way – 50 feet

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- B. Minimum side yard depth - 20 ft.
- C. Minimum rear yard depth - 20 ft.
- D. Minimum side yard on corner lots - 50 ft. from side line of the road or street.
- E. Maximum building height - 2-½ stories or 35 ft. in height whichever is greater.
- F. Maximum Lot Coverage - 30 Percent

401.04 Area Regulations on Accessory Buildings

Minimum rear or side yard depth - 10 ft., providing further that it will not be less than twenty (20) ft. from any existing building on the same lot.

401.05 Minimum Floor Area

Every dwelling or residence in this District shall have floor space designed and used for living quarters, exclusive of porches, garages, breezeways or terraces, as follows:

- A. Floor areas for single story dwelling shall contain at least 1,200 sq. ft..
- B. Floor areas shall be a minimum of eight hundred (800) sq. ft. for the first floor of one and one half - story or two-story dwelling, and the area of the second floor shall not be less than fifty percent (50%) of the area of the first floor.
- C. Every residence shall include a garage, the dimensions of which shall be no less than three hundred eight (308) sq. ft. with no side being less than fourteen (14) ft.

SECTION 402 COMMERCIAL DISTRICT

402.01 Purpose

The purpose of this District is to provide for a variety of retail, service and administrative establishments, in unified groupings, to service the needs of the residents of the Village of Burbank. The District Regulations are designed to provide for limited commercial development located in close proximity to residential uses.

402.02 Uses

- A. Permitted Uses - a building or lot shall be used only for the following purposes:
 - 1. Establishments engaged in providing a variety of services to individuals and business establishments, such as:
 - a. Personal services such as barber, beauty shop, tailor, shoe repair, laundries, and dry cleaning.
 - b. Medical services, real estate services, insurance, accounting, engineering and architectural services, legal services, and any other service dealing with intangibles.
 - c. Non-profit professional and charitable organizations.
 - d. Funeral homes.
 - e. Electronic equipment repair shops.
 - f. Banks and other financial services.

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2. Establishments engaged in retail trade, including but not limited to:
 - a. Drug stores.
 - b. Florist Shops.
 - c. Antique Shops.
 - d. Restaurants excluding drive-ins, fast food or take out restaurants.
 - e. Food stores including supermarkets.
 - f. Hardware stores.
- B. Conditionally Permitted Uses - The Board of Zoning Appeals may issue Conditional Zoning Certificates for uses listed herein subject to the general requirements of Section 704 and the subsections of Section 705 referred to below:
 1. Churches and other buildings for the purpose of religious worship subject to subsections 705.01, 705.03, and 705.06.
 2. Government owned and/or operated buildings and facilities subject to subsections 705.01, 705.03, and 705.06.
 3. Clubs, lodges, fraternal, charitable, or social organizations subject to subsections 705.01, 705.02, 705.04, 705.07 and 705.10.
 4. Drive-in, fast food, and take-out restaurants, subject to subsections 705.04, 705.06, and 705.10.
 5. Drive-in banks subject to subsections 705.01, 705.03, 705.05, 705.06, 705.07 and 705.10.
 6. Gasoline service stations and repair shops subject to subsections 705.01, 705.03, 705.05, 705.06, 705.07, 705.09 and 705.10.
 7. Nursing homes subject to subsections 705.01, 705.06, 705.07 and 705.10.
 8. Motels or hotels subject to subsections 705.01, 705.02, 705.03, 705.04, 705.05, 705.06, 705.07 and 705.10.

402.03 Area and Height Regulations

- A. Minimum lot width at building setback line - 100 ft..
- B. Minimum lot frontage at street right-of-way - 100 ft.
- C. Minimum front yard depth - 50 ft.. The required front yard may be used for parking except for a landscaped strip 15 ft. in width adjacent to the right-of-way and running the entire frontage of the parcel.
- D. Minimum side yard depth - 20 ft.
- E. Minimum rear yard depth - 20 ft.
- F. Maximum building height - 35 ft.

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- G. Adjacent to residential district side yard - 25 ft. When adjacent to a residential district or residential uses, the minimum side yard (facing the residential district) shall be 25 ft. with a landscaped and planted buffer strip 25 ft. in width and running the length of the side yard. An obscuring fence, hedge or wall, at least six (6) ft. in height may also be used running the length of the side yard. The side area inside landscaped, fence, hedge, or wall may be used for off-street parking, loading or storage area.
- H. Adjacent to residential district rear yard - 50 ft. When adjacent to residential district or residential uses, the rear yard shall be fifty (50) ft. in depth with a landscaped and planted buffer strip 25 ft. in width and running the length of the rear yard. An obscuring fence, hedge or wall at least six (6) ft. in height may also be used running the length of the rear yard. The area inside the landscaped, fence, hedge or wall may be used for off-street parking, loading, or storage area.
- I. Maximum Lot Coverage - 40 Percent

402.04 Site Plan and Conformance

All uses specified under Section 405.02 shall be permitted only after the review and approval of the site plans by the Board of Zoning Appeals and upon a finding by the Board of Zoning Appeals that the specific standards set forth in the Article and the requirements of Section 307 will be met.

SECTION 403 INDUSTRIAL DISTRICT

403.01 Purpose

The purpose of this District is to provide for industrial operations engaged in the fields of repair, storage manufacturing, processing, wholesaling and distribution of such a nature that no objectionable by-products such as odors, smoke, dust, refuse, electromagnetic interference or noise are noticeable beyond the lot on which the facility is located.

403.02 Uses

- A. Permitted Uses - a building or lot shall be used only for the following purposes:
 - 1. Any use permitted in Commercial Districts.
 - 2. Agriculture
 - 3. Grain elevators and feed mills.
 - 4. Food processing and distribution facilities.
 - 5. Manufacturing not involved in the production of hazardous materials.
 - 6. Warehousing and wholesaling activities.
 - 7. Contractor's offices and yards.
 - 8. Transport and trucking terminals.
 - 9. Laboratories and research facilities.
 - 10. Building materials storage and sales.
 - 11. Equipment storage and sales.

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12. Machine shops.
 13. Public service facilities.
 14. Essential services.
 15. Accessory buildings incidental to the principal use which do not include any activity conducted as a separate business.
- B. Conditionally Permitted Uses - The Board of Zoning Appeals may issue Conditional Zoning Certificates for uses listed herein subject to the general requirements of Section 704 and the specific requirements of Section 705.
1. Mineral extraction, storage and processing.
 2. Auto wrecking, salvage and storage.
 3. Recycling facilities.
 4. Similar uses.

403.03 Area and Height Regulations

- A. Minimum lot width at building setback line - 100 ft..
- B. Minimum lot frontage at street right-of-way - 100 ft.
- C. Minimum front yard depth - 50 ft.. The required front yard may be used for parking except for a landscaped strip 15 ft. in width adjacent to the right-of-way and running the entire frontage of the parcel.
- D. Minimum side yard depth - 20 ft.
- E. Minimum rear yard depth - 20 ft.
- F. Maximum building height - 75 ft.
- G. Maximum Lot Coverage - 40 percent
- H. Adjacent to residential district side yard - 50 ft. When adjacent to a residential district or residential uses, the minimum side yard (facing the residential district) shall be 50 ft. with a landscaped and planted buffer strip 25 ft. in width and running the length of the side yard. An obscuring fence, hedge or wall, at least six (6) ft. in height may also be used running the length of the side yard. The side area inside landscaped, fence, hedge, or wall may be used for off-street parking, loading or storage area.
- I. Adjacent to residential district rear yard - 50 ft. When adjacent to residential district or residential uses, the rear yard shall be fifty (50) ft. in depth with a landscaped and planted buffer strip 25 ft. in width and running the length of the rear yard. An obscuring fence, hedge or wall at least six (6) ft. in height may also be used running the length of the rear yard. The area inside the landscaped, fence, hedge or wall may be used for off-street parking, loading, or storage area.

403.04 Site Plan and Conformance

All uses specified under Section 403.02 shall be permitted only after the review and approval of the site plans by the Board of Zoning Appeals and upon a finding by the Board of Zoning Appeals that the specific standards set forth in the Article and the requirements of Section 307 will be met.

ARTICLE V

PARKING AND LOADING REQUIREMENTS

SECTION 501 GENERAL REQUIREMENTS

No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this Article. The provisions of this Article shall not apply to any existing building or structure.

SECTION 502 PARKING SPACE REQUIREMENTS

For the purpose of this Ordinance the following parking space requirements shall apply:

502.01 Residential

- A. Two (2) spaces per dwelling unit.
- B. Tractor trailers, overweight vehicles and trucks other than pickup trucks shall be prohibited from parking on the street in residential areas.

502.02 Recreation or Entertainment

- A. Dining rooms, restaurants, taverns, nightclubs, etc. - One (1) per 200 sq. ft. of floor space.
- B. Restaurants - fast food, drive-in, or take-out. One (1) per twenty-five (25) sq. ft. of floor area.
- C. Bowling Alleys - Four (4) per alley or lane plus one (1) additional space per 100 sq. ft. of the areas used of restaurant, cocktail lounge or similar use.
- D. Outdoor Swimming Pools - One (1) per five (5) persons capacity plus one (1) per four (4) seats or one (1) per 30 sq. ft. floor area used for seating purposes, whichever is greater.
- E. Auditoriums, sport arenas, theaters, and similar uses - One (1) per four (4) seats.
- F. Libraries and Museums - One (1) per 500 sq. ft. of floor area.
- G. Tractor trailers, overweight vehicles and trucks other than pickup trucks shall prohibited from parking in recreation or entertainment areas.

502.03 Commercial

- A. Automobile service stations, which also repair - two (2) per gasoline pump and four (4) per service bay.
- B. Hotels, motels - one (1) per each sleeping room plus one (1) space per two (2) employees.
- C. Funeral Parlors, mortuaries and similar type uses - one (1) per 100 sq. ft. of floor area in slumber rooms, parlors or service rooms.
- D. Retail stores - one (1) per 250 sq. ft. of floor area.
- E. Banks, financial institutions and similar uses - one (1) for each 200 sq. ft. of floor area.
- F. Offices, public or professional administration or service buildings - one (1) per 400 sq. ft. of floor area.

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- G. All other types of business or commercial uses - one (1) per 300 sq. ft. of floor area.
- H. Shopping Centers - five (5) spaces per 1,000 sq. ft. of gross leasable floor area.
- I. Beauty Parlors and Barber Shops - two (2) per chair.
- J. Laundromats - one (1) for every two (2) washing machines.
- K. No entrance or exits allowed within 150 ft. of intersection right-of-way lines.
- L. Tractor trailers, overweight vehicles and trucks other than pickup trucks shall prohibited from parking in Commercial areas.

502.04 Institutional

- A. Churches and School Auditoriums - one (1) per four (4) seats of seating capacity in principal auditorium.
- B. Medical and Dental Offices and Clinics - five (5) per physician or dentist, and one for every two other employees.
- C. Nursing Homes - one (1) for every two beds.
- D. Tractor trailers, overweight vehicles and trucks other than pickup trucks shall prohibited from parking in Institutional areas.

502.05 Industrial

- A. Not involving onsite sales to the public - two (2) spaces per each three (3) employees in the largest working shift for which the building was designed plus one (1) space per company vehicle and piece of mobile equipment.
- B. Involving onsite sales to the public – Six (6) spaces for customer parking, two (2) spaces per each three (3) employees in the largest working shift for which the building was designed plus one (1) space per company vehicle and piece of mobile equipment.

502.06 Floor Area

For the purpose of this Article, “floor area” in offices, merchandising and service types of uses means the area used for service to the public and excludes areas used principally for non-public purposes such as storage, incidental repair, processing, show windows, rest rooms and dressing rooms. In measurement for parking space, fractions of required floor area over one-half shall require one (1) parking space.

SECTION 503 LOADING SPACE REQUIREMENTS

503.01 Spaces Required

Every building used for non-residential purposes, which customarily receives or distributes goods by motor vehicle, shall provide sufficient space on the premises for all loading and service purposes. Every building having over 5,000 sq. ft. of gross floor area shall be provided with at least one (1) truck loading/unloading space not less than 12 ft. in width, 40 ft. in length and 14 ft. clearance. An additional truck space of these dimensions shall be provided for every additional 20,000 sq. ft. or fraction thereof, of gross floor area in the building.

503.02 Access

Access to truck loading/unloading space shall be provided directly from a public street or alley or from any right-of-way that will not interfere with public convenience and will permit the orderly and safe movement of such trucks.

SECTION 504 OTHER USES

Where the off-road parking and loading requirements for a use are not specifically defined herein, the parking and loading facilities for such use shall be developed so as to be sufficient to meet all the parking and loading needs of the proposed use. No parking, loading or servicing shall be done in any public right-of-way.

SECTION 505 PARKING AREA DIMENSIONS

Off-road accessory-parking areas shall provide parking spaces, each of which shall not be less than 200 sq. ft. in area exclusive of access drives or aisles. Aisles servicing individual parking spaces shall have widths not less than the following:

- A. 90 degree parking - 25 ft..
- B. 60 degree parking - 17-½ ft..
- C. 45 degree parking - 13 ft..
- D. Parallel parking - 12 ft..

SECTION 506 PARKING AREA DESIGN

All parking area with a capacity over 12 vehicles shall be striped between stalls to facilitate the movement into and out of the parking stalls. Such parking areas shall be of usable shape paved with bituminous, concrete or equivalent surfacing, graded and drained to dispose of all surface water in a manner designed to minimize adverse effects on abutting properties, streams and public roads. All lighting used to illuminate such parking areas shall be so arranged as to direct the light away from adjoining premises or roads and no open light sources such as the stringing of light bulbs shall be permitted.

SECTION 507 ENTRANCES AND EXITS

Entrances and exits shall be located to minimize traffic congestion and avoid undue interference with pedestrian access at road intersection corners. There shall not be more than two (2) access ways abutting on any one road. Such access ways shall not be more than thirty (30) ft. in width at the right-of-way line, except that access-ways primarily for truck use shall be not more than eighty (80) ft. in width at the right-of-way line.

SECTION 508 YARD RESTRICTIONS

Off-road parking facilities shall not occupy any part of any required front or side yard in all residential districts. In all districts, open off-road parking facilities may occupy the required rear yard providing that such use meets all the appropriate side and rear yard requirements of that district.

ARTICLE VI

SIGN REGULATIONS

SECTION 601 PURPOSE

The purpose of this Article is to provide for the use, location and size of signs throughout the Village in an orderly manner that will promote traffic safety, provide for adequate identification of uses, minimize the confusion, unsightliness and self-defeating consequences of the use of an excessive number of signs of excessive size.

SECTION 602 LIMITATION

602.01 Official Signs Excluded From Limitation

All signs erected and maintained pursuant to any governmental function and necessary to the public safety and welfare are exempt from regulation under this Article.

602.02 Outdoor Advertising

Section 519.20 of the Ohio Revised Code states that for the purpose of Village zoning, “outdoor advertising shall be classified as a business use and be permitted in all districts zoned for industry, business, or trade or lands used for agricultural purposes.” Such signs are further subject to the regulations established in Section 607.

SECTION 603 GENERAL REQUIREMENTS

The regulations in this section shall apply to all signs in all zoning districts.

603.01 Light

Any illuminated sign shall employ only light emitting light of constant intensity. No sign shall be illuminated by or contain flashing, intermittent, rotating or moving light(s). In no event shall an illuminated sign be placed to permit the illumination there from to be directed upon the right-of-ways or adjacent property so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

603.02 Movement

No sign shall employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention. Subsections A and B of this section shall not apply to any sign performing a public service function indicating time, temperature or similar services.

603.03 Right-of-Way

No sign shall be placed in or shall extend into any public right-of-way except governmental signs as described in Section 602.01 above.

603.04 Projecting Signs

No projecting signs shall be erected or maintained from the front or face of a building a distance of more than eighteen (18) inches, including those projecting from the face of a marquee.

603.05 Roof Signs

No sign shall be placed on a roof of any building except those signs whose supporting structure is screened so the sign appears to be a continuation of the face of the building.

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603.06 Portable Signs

See Section 605.07.

603.07 Location

Signs shall be erected so as not to obstruct traffic sight lines or traffic control lights at road intersections.

603.08 Similarity to Traffic Control Devices

Signs visible from a road shall not contain any words or symbols that would cause confusion because of their resemblance to highway traffic control or directional signals.

SECTION 604 AREAS OF SIGNS

The area of a sign shall be measured as that area which is normally visible from any one direction. For example, a rectangular sign measuring 4 ft. by 5 ft. with a display on both sides shall be considered 20 sq. ft., as would a 4-foot by 5-foot sign with a display on only one side. Frames and structural members not including advertising matter shall not be included in calculation of surface area.

SECTION 605 SIGNS PERMITTED IN ALL DISTRICTS NOT REQUIRING A PERMIT

The following types of signs shall be permitted in any zoning district and shall not require a zoning certificate:

605.01 Directional Signs

Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

605.02 Real Estate Signs

Real estate signs when placed on properties for sale or rent not exceeding 12 sq. ft. in area.

605.03 Home Occupation Signs

Home occupation signs not exceeding 6 sq. ft. in area and not exceeding one sign per dwelling, may be placed in a window only.

605.04 Residence Signs

Signs denoting the name and address of the occupants of the premises not exceeding 4 sq. ft. in area and not exceeding one sign per dwelling.

605.05 Political Signs

No political sign shall be posted in any place or in any manner that is destructive to public property upon posting or removal. No political signs shall be erected in any public right-of-way or shall any such sign be posted on a utility pole. No political sign shall exceed six (6) sq. ft. Political signs may be placed a maximum of 30 days prior to an election and must be removed within 10 days after the election.

605.06 Temporary Signs

Temporary signs are those announcing special public or institutional events, the erection of a building, opening of a business or signs for similar uses. Such signs shall be removed within two weeks of the completion of the event or project.

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605.07 Portable Signs

No portable signs or temporary signs, including a sign or temporarily placed vehicle for advertising purposes, shall be placed on the front or face of any building or any premises, except in the following instances for no more than fourteen (14) days and shall be at least ten (10) ft. from any road right-of-way.

- A. Going out of business sale or grand closings.
- B. Grand openings.
- C. Public or institutional event.

605.08 Institutional Signs

These are signs or bulletin boards customarily incidental to places of worship, libraries, museums, social clubs or societies. Such signs or bulletin boards shall not exceed 30 sq. ft. in area, shall be located on the premises of such institutions and shall be set back from all right-of-way lines at least 12 ft..

605.09 Development Signs

One (1) temporary development sign facing each adjacent right-of-way not to exceed 50 sq. ft. in area and located at least 25 ft. from any right-of-way line.

605.10 Subdivision Signs

One sign at each entrance of the subdivision or development not to exceed 20 sq. ft. in area and located at least five (5) ft. from any right-of-way.

SECTION 606 ACCESSORY SIGNS REQUIRING A PERMIT

606.01 Ground Sign

One (1) free standing, on the ground or monument type sign, business name sign per parcel upon which business building is located may be erected in front or on the side yard facing thoroughfare. Such sign height may not exceed twenty (20) ft. from ground level at site of sign. No such sign may be located nearer than ten (10) ft. from road pavement nor closer than ten (10) ft. from any side lines. The placement of said sign may be located in the required landscaped or buffer area strip, or deeper into property at option of the owner.

606.02 Identification Signs

One (1) pole type or monument type sign at the primary entrance to an integrated grouping of businesses may be permitted in addition to signs above mentioned. Such identification sign shall identify the name of the grouping of businesses, and shall not exceed one hundred (100) sq. ft. in area and twenty-five (25) ft. in maximum height. No portion of the sign shall be located within an island created as a boulevard entrance with four (4) lanes to such an integrated business grouping area.

606.03 Service Station Signs

In addition to the other signs permitted by this Section, gasoline filling stations may not have more than one (1) unlighted double-facing accessory sign per pump island. Such signs shall be a maximum area of five (5) sq. ft. and shall be permanently attached to the pump island.

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606.04 Portable Signs

No portable signs or temporary signs, including a sign or temporarily placed vehicle for advertising purposes, shall be placed on the front or face of a building or any premises, except in the following instances for no more than fourteen (14) days and shall be at least ten (10) ft. from any road right-of-way.

- A. Going out of business sale or grand closings.
- B. Grand openings.
- C. Public or institutional events.

606.05 Wall, Roof, and Awning Signs

In addition to the other signs permitted by this section, each business or industry shall be permitted one (1) accessory wall, roof or awning sign per building or attached building, provided the following conditions are met:

- A. Wall signs shall not be larger than eighty (80) sq. ft. or ten percent (10%) of the area of the surface of the building of which the sign is located, whichever sign area is smaller. In addition, a wall sign shall not project from the face of the wall more than eighteen (18) inches and shall not extend above or beyond the building wall. Buildings facing more than one (1) adjacent right-of-way may have one (1) wall sign facing each adjacent right-of-way.
- B. Roof signs shall not be larger than eighty (80) sq. ft. in area or ten percent (10%) of the area of the surface of the building on which the sign is located, whichever is smaller. In addition, a roof sign shall not project above the roof of a building with a flat roof, nor shall a roof sign project above the ridgeline or peak of a building with a gambrel, gable, hip or mansard roof. In addition, a roof sign shall not project outward beyond the bottom of the eave line of the building. Buildings that face more than one (1) adjacent right-of-way may have one (1) roof sign facing each right-of-way.
- C. Awning signs shall not be larger than eighty (80) sq. ft. or ten percent (10%) of the area of the surface of the building on which said sign is located. In addition, no awning sign shall project from the face of a wall more than twenty-four (24) inches and shall not extend beyond the building wall.

606.07 Window Signs

Special and periodic advertising signs located inside or enclosed in a building and visible through the window may be permitted where the area of the sign(s) does not exceed fifty percent (50%) of the window area. Such signs shall advertise products and services provided on the premises.

SECTION 607 NON-ACCESSORY SIGNS (BILLBOARDS)

Non-accessory signs (billboards) shall be permitted only in a commercial district and upon lands used for agricultural purposes, as required by Section 519.20 Ohio Revised Code, and shall require zoning certificates. Such signs shall be located so as to maintain the same minimum front, side, and rear yard requirements and not closer than five hundred (500) ft. to a dwelling. The maximum area for said individual billboard shall be four hundred (400) sq. ft. and a maximum height of thirty-five (35) ft. Such signs visible to approaching traffic on either or both sides of a right-of-way shall have minimum spacing of two hundred fifty (250) ft.

SECTION 608 ENFORCEMENT

608.01 Maintenance

The Zoning Inspector and/or Police Department of the Village of Burbank shall enforce the before mentioned provisions, as well as requires and/or order any sign to be painted or refurbished at least once

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every two (2) years, if needed, to keep the sign(s) in a neat and safe condition. All supports, guys, braces, and anchors for such sign shall be maintained in safe condition. The Zoning Inspector may order removal of any such sign that is not so maintained, and it shall be unlawful for the owners or the persons in charge of such sign(s) not to remove the same after receiving notice from the Zoning Inspector to do so.

608.02 Removal of Unsafe Signs

If the Zoning Inspector shall find that any sign or other advertising structure is unsafe or insecure, or is a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of this Ordinance, notice shall be given in writing by the Zoning Inspector to the owner, agent or person having the beneficial use of such sign who shall thereafter immediately correct the condition for which said notice was given.

608.03 Zoning Permit Required

A zoning permit shall be required for every permitted sign except as otherwise provided herein. All signs shall be erected only upon the submission of a proper plan and its approval by the Zoning Inspector.

SECTION 609 VIOLATIONS

In case any sign shall be installed, erected, constructed, or maintained in violation of any of the terms of this Ordinance, the Zoning Inspector shall notify in writing the owner or lessee thereof to alter such sign so as to comply with the Ordinance. Failure to comply with any of the provisions of the article shall be deemed a violation and shall be punishable under Article 10 of this Ordinance. Political signs posted in violation of Section 607 of this Ordinance are subject to removal by the Zoning Inspector five (5) days after written notice of violation of Section 605.05 has been given.

SECTION 610 NON-CONFORMING SIGNS

See Article VIII.

ARTICLE VII

CONDITIONAL ZONING CERTIFICATES

SECTION 701 PURPOSE

Certain kinds of uses need to be reasonably controlled by specific requirements that provide practical latitude for the investor but at the same time maintain adequate provisions for the security of the health, safety, convenience, prosperity, or general welfare of the community's inhabitants.

To accomplish such dual objectives, provision is made in this Ordinance for a more detailed consideration of each conditionally permitted use as it relates to location, design, size, and method of land use, as it affects volume of traffic generated, and kinds of public facilities and services it requires.

Land structure uses possessing these unique characteristics are designated as Conditionally Permitted through the issuance of a Conditional Zoning Certificate with conditions and safeguards attached as may be deemed necessary for the public welfare.

SECTION 702 PROCEDURES FOR MAKING APPLICATION

702.01 Application Submitted to the Board of Zoning Appeals

An application shall be submitted to the Board of Zoning Appeals and it shall contain the following data:

- A. The form supplied by the Board of Zoning Appeals completed by the applicant.
- B. A 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 existing and proposed structures shall be submitted with an application for conditional zoning.
- C. The Board of Zoning Appeals may refer the plan to qualified consultants when it deems expert advice is necessary, and applicant shall pay the cost of said expert service. The fee for Conditional Certificates shall be as established per Section 1005.

702.02 Hearing Notice

Within thirty-five (35) days of submission of the application, the Board of Zoning Appeals shall hold a public hearing. Notice of the hearing shall be published in a newspaper of general circulation, at least 10 days prior to the date of the hearing. Such notice shall indicate the place, time, and subject of the hearing.

702.03 Notice to Parties in Interest

Before holding the public hearing required in Section 702.02, written notice of such hearing shall be mailed by first class mail, at least ten (10) days before the day of the hearing to all parties in interest including adjacent property owners. The notice shall contain the same information as required of notices published in newspapers as required in Section 702.02.

702.04 Review by Board of Zoning Appeals

The Board of Zoning Appeals shall review the proposed development as presented on the submitted plans and specifications in terms of the standards established in this Ordinance. Such review shall be completed within thirty (30) days of the public hearing. The Board of Zoning Appeals may approve, approve with modifications, or deny the application. In approving an application, the Board of Zoning Appeals shall issue a Conditional Zoning Certificate listing the required conditions.

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702.05 Issuance and Revocation of Conditional Zoning Certificate

Only upon conclusion of hearing procedures relative to a particular application may the Board of Zoning Appeals issue a Conditional Zoning Certificate. The breach of any condition, safeguard, or requirement shall constitute a violation of the Zoning Ordinance. Such violation shall be punishable as specified in Section 1009.

702.06 Re-application

No application for a Conditional Zoning Certificate which had been decided wholly or in part by the Board of Zoning Appeals shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration by the Board of Zoning Appeals.

SECTION 703 STANDARDS AND REQUIREMENTS FOR CONDITIONAL USES

The Board of Zoning Appeals shall establish that the general standards in Section 704 and the specific requirements in Section 705 pertinent to each conditional use indicated herein shall be satisfied by the establishment and operation of the proposed conditional use. The safeguards as it deems necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objective of this Ordinance will be observed.

SECTION 704 GENERAL REQUIREMENTS

The Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence that such use on the proposed location:

- 704.01 Will be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan.
- 704.02 Will be designed, constructed, operated, and maintained so as to be harmonious with the existing or intended character of the general vicinity.
- 704.03 Will not be hazardous or disturbing to existing or future neighboring uses.
- 704.04 Will not be detrimental to property in the immediate vicinity or to the community as a whole.
- 704.05 Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage, schools, etc.
- 704.06 Will be in compliance with the subdivision regulations, Board of Health Standards, and building codes.
- 704.07 Will allow vehicular approaches to the property so as not to create interference with traffic on surrounding streets.

The Board of Zoning Appeals may require as conditions of approval any other requirement, including guarantees that conditions will be fulfilled, that it deems necessary to fulfill the proposes and intent of this Ordinance.

SECTION 705 SPECIFIC REQUIREMENTS

- 705.01 All structures, except minor structures such as utility poles and meters, and activity areas shall be located at least fifty (50) ft from the sideline of street or road.
- 705.02 Loud speakers which cause a hazard or annoyance shall not be permitted.
- 705.03 All points of entrance or exit shall be located no closer than two hundred (200) ft. from the intersection of two major streets and no closer than one hundred (100) ft. from the intersection of a major street and a minor street, or two minor streets.

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- 705.04 There shall be no more than one directional identifying sign oriented to each abutting road identifying the activity.
- 705.05 No lighting shall constitute a nuisance and shall in any way impair safe movement of traffic on any street or highway.
- 705.06 The use should be located on major thoroughfares or at intersections of major and/or secondary thoroughfares.
- 705.07 All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, individual, or to the community in general.
- 705.08 Business uses in residential districts may be permitted subject to the following conditions:
- A. The use shall be secondary in importance to the use of the dwelling for dwelling purposes.
 - B. The use shall be conducted by the occupant with a maximum of one (1) additional employee.
 - C. The use shall be carried on entirely within the dwelling and not in an accessory building.
 - D. The home occupation shall not occupy more than twenty percent (20%) of the floor area of the dwelling.
 - E. The use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted.
 - F. No activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way or adjacent property.
 - G. The proposed use shall not generate noise, odor, dust, smoke or vehicular or pedestrian traffic in an amount which would depreciate the residential character of the neighborhood in which the proposed use is located.
- 705.09 Service stations in commercial districts shall be permitted under the following conditions:
- A. The use shall be for the purpose of servicing motor vehicles under 1-½ tons rated capacity including the dispensing of fuel and lubricants, cooling system and ignition service, sale and installation of batteries, lamps, fan belts, spark plugs, tires, and accessories, not requiring a change in the chassis, body, or engine of the vehicle.
 - B. All activities, except those required to be performed at the fuel pumps, and car washing shall be carried on inside a building; if work is performed on a vehicle, such vehicle shall be entirely within a building.
 - C. No more than two (2) driveway approaches shall be permitted directly from any major thoroughfare nor more than one (1) driveway approach from any minor street, each of which shall not exceed thirty (30) ft. in width at the property line.
 - D. The property of the facility shall be maintained in a neat, orderly fashion to ensure the health, safety and appearance of the community and to minimize visual blight.
- 705.10 To secure the optimum effect of transition from a residential to a non-residential district, the Board of Zoning Appeals, with the approval of the Village Council, shall have the power to determine the need for and amount of plantings, walls, fences, or any combination of these on any property. Specifications including density and height figures for the overall site development shall include the proposed arrangement of such plantings and structures.

ARTICLE VIII

NON-CONFORMING USES

SECTION 801 CONTINUATION OF NON-CONFORMING USE

The lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of enacting this Zoning Ordinance or an amendment to the Ordinance, may be continued, although such use does not conform with the provisions of the Ordinance or amendment.

SECTION 802 RESTORATION, RECONSTRUCTION AND EXTENSION

A non-conforming building, structure or use may be restored, reconstructed and extended, upon reasonable terms on application to the Board of Zoning Appeals. The extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this Ordinance shall not be deemed the extension of such non-conforming use.

A non-conforming building that is destroyed by fire, flood, earthquake, explosion, riot, war, or act of God or of the public enemy, may be restored, reconstructed, or rebuilt upon its original footprint provided that said restoration shall take place within six (6) months from the time of such damage or destruction.

SECTION 803 DISPLACEMENT

A non-conforming use shall not displace a conforming use.

SECTION 804 DISCONTINUANCE OR ABANDONMENT

Whenever a non-conforming use has been voluntarily discontinued for a period of two (2) years or more, the non-conforming use shall not be re-established. Any further, future use thereof shall be in conformity with the provisions of this zoning Ordinance.

SECTION 805 SUBSTITUTION OF NON-CONFORMING USE TO OTHER NON-CONFORMING USE

A non-conforming use may not be changed to another non-conforming use unless the Board of Zoning Appeals, reviewing a submitted Zoning Variance Application, determines that the proposed use is not in conflict with the character and uses in the district in which it is located.

ARTICLE IX

AMENDMENTS

SECTION 901 GENERAL

Whenever the public necessity, convenience, general welfare, or good zoning practices require, Village Council, may, by Ordinance, after receipt of recommendations thereon from the Board of Zoning Appeals, and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries of classification of property.

SECTION 902 INITIATION OF ZONING AMENDMENTS

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

902.01 By adoption of a motion by the Board of Zoning Appeals

902.02 By adoption of a resolution by Village Council

902.03 By the filing of an application by at least one owner or lessee of property within the area proposed to be changed or affected by said amendment.

SECTION 903 CONTENTS OF APPLICATION

Applications for amendments to the Official Zoning Map adopted as part of this Ordinance by Section 313 shall contain at least the following information:

903.01 Name, address, and phone number of applicant.

903.02 Proposed amending ordinance, approved as to form, by the Village legal advisor.

903.03 Present use.

903.04 Present zoning district.

903.05 Proposed use.

903.06 Proposed zoning district.

903.07 A map showing property lines and owner, thoroughfares, existing and proposed zoning.

903.08 A list of all property owners and their mailing addresses who are within, contiguous to, or direction across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case, except that addresses need not be included where more than 10 parcels are to be rezoned.

903.09 A fee as established by Village Council, according to Section 1005. Applications for amendments proposing to amend, supplement, change or repeal portions of this Ordinance other than the Official Zoning Map shall include items in Section 903.01, 903.02 and 903.09.

SECTION 904 TRANSMITTAL TO BOARD OF ZONING APPEALS

Immediately after the adoption of a resolution by the Village Council or the filing of an application by at least one owner or lessee of property said Ordinance or application shall be transmitted to the Board.

SECTION 905 RECOMMENDATIONS BY BOARD OF ZONING APPEALS

Within sixty (60) days from the receipt of the proposed amendment, the Board of Zoning Appeals shall transmit its recommendation to the Village Council. The Board of Zoning Appeals may recommend that the amendment be approved as submitted, or it may recommend that it be modified, or it may recommend that the amendment be denied.

SECTION 906 PUBLIC HEARING BY VILLAGE COUNCIL

Upon receipt of the recommendation from the Board of Zoning Appeals, Village Council shall schedule a public hearing. Said hearing shall be not more than sixty-five (65) days from the receipt of the recommendation of the Board of Zoning Appeals.

SECTION 907 NOTICE OF PUBLIC HEARING IN NEWSPAPER

Notice of the public hearing required in Section 906 shall be given by Village Council in at least two (2) publications in a newspaper of general circulation. The first required notice shall be published at least thirty (30) days prior to the date of the public hearing; the second required notice shall be published seven (7) days after the first notice. The published notices shall state the time and place of the public hearing and the nature of the proposed amendment. During the thirty (30) day period, the text of the proposed amendment and all maps, plans, or reports relating to the proposal, including the recommendation of the Board of Zoning Appeals, shall be on file for public examination in the Office of the Village Clerk.

SECTION 908 NOTICE TO PROPERTY OWNERS BY VILLAGE COUNCIL

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the public hearing shall be mailed by first class mail, at least twenty (20) days before the day of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or lists that may be specified by Village Council. The failure to deliver the notification, as provided in this section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in Section 907.

SECTION 909 ACTION BY VILLAGE COUNCIL

Village Council shall act upon the recommendation of the Board of Zoning Appeals within thirty-five (35) days after the public hearing is conducted as required by Section 906. No such Ordinance, measure or regulation which violates, differs from, or departs from the plan or report submitted by the Board of Zoning Appeals shall take effect unless passed or approved by not less than three-fourths of the Village Council members. No Ordinance, measure, ore regulation which is in accordance with the recommendations, plan, or report submitted by the Board of Zoning Appeals shall be deemed to pass or take effect without the concurrence of at least a majority of the Village Council members.

ARTICLE X

ADMINISTRATION AND ENFORCEMENT

SECTION 1001 ZONING INSPECTOR

1001.01 General

A Zoning Inspector shall be employed to enforce this Zoning Ordinance. The term of employment, rate of compensation, and other such conditions shall be set by the Village Council. For the purpose of enforcing this Ordinance, the Zoning Inspector shall have the powers of a police officer.

SECTION 1002 BOARD OF ZONING APPEALS

The board of Zoning Appeals shall have such power as specified by Chapter 519 of the Ohio Revised Code and Articles VII and XI of this Ordinance.

SECTION 1003 ZONING PERMIT; APPLICATION AND ISSUANCE *[amended by Ordinance No. 2011-03]*

1003.01 No building, garage, swimming pool, deck, driveway, sidewalk, parking lot, parking pad, pond, lake, fence, or sign shall be erected, moved, added to, structurally altered, nor shall any building or land be established or changed in use without a zoning permit therefore issued by the Zoning Inspector, provided that buildings that are One Hundred (100) square feet or less do not require a Zoning Permit for construction, although they must comply with the applicable provisions of this Zoning Code.

Zoning permits shall be issued only in conformity with the provisions of this Ordinance unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use, or variance.

This application shall include the following information, as are applicable:

- A. A plot plan drawn to scale showing the exact dimensions of the lot to build upon;
- B. The location, dimensions, height, and area of items to be erected;
- C. The intended use;
- D. The proposed number of sleeping rooms, dwelling units, occupants, employees, and other uses;
- E. The yard, open area, set-backs, and parking space dimensions;
- F. Any easements on the property;
- G. Any other pertinent data as may be necessary to determine and provide for the enforcement of this Ordinance. (See Section 307 for site plan requirements for commercial and industrial uses and conditionally permitted uses.)

1003.02 Time for Issuance *[Amended by Ordinance No. 2011-03]*

Within thirty (30) days after the receipt of application, the Zoning Inspector shall issue a Zoning Permit if the application complies with the requirements of this Ordinance and the application is accompanied by the proper fee as indicated in Section 1004.

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1003.03 Term of Permit

The zoning permit shall become void at the expiration of one (1) year after date of issuance unless construction is started. Once started, the project must be completed in one (1) year. If no construction is started or use changed within one (1) year of date of permit, a new application and permit are required.

1003.04 Application for Conditional Zoning Permit

If the application is for a conditional zoning permit, the application procedure defined in Section 702 will be followed in lieu of the above regulations.

1003.05 Referral to Ohio Department of Transportation

The director of the Ohio Department of Transportation shall be notified concerning applications for Zoning Certificates for any land within three hundred (300) ft. of the centerline of a certified (journalized) new highway improvement or within five hundred (500) ft. from the intersection of an existing public road with said centerline. Upon receipt of an application for zoning certificate in this area, the Zoning Inspector shall approve the application for a period of one hundred and twenty (120) days from receipt of the notice by the Director. During the 120-day period or any extension agreed to by the Director and the property owner, the Director shall proceed to acquire the land required for the highway improvement, or to determine that acquisition at that time is not in the public interest. Upon receipt of notice from the Director that the property will be acquired, the Zoning Inspector shall refuse to issue the certificate for the land the Director intends to acquire. If the Director provides notice that acquisitions at that time is not in the public interest or at the expiration of the 120 period or any extension, the Zoning Inspector shall proceed to approve or disapprove the application in the manner specified above.

SECTION 1004 SCHEDULE OF FEES, CHARGES, AND EXPENSES

The Village Council shall by Ordinance establish a schedule of fees, charges and expenses, and a written procedure for zoning permits, amendments, appeals variances, conditional use permits, site plan approvals, and other matters pertaining to the administration and enforcement of this Ordinance requiring investigations, inspections, legal advertising, postage and other expenses. The schedule of fees shall be posted in the office of the Zoning Inspector, and may be altered or amended only by Village Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

SECTION 1005 VIOLATIONS

Buildings erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this Ordinance is declared to be a nuisance per se.

SECTION 1006 INSPECTION AND CORRECTION OF VIOLATIONS

It shall be the duty of the Zoning Inspector to see that any building erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this Ordinance is inspected and the Zoning Inspector shall declare each violation a nuisance and, in writing, order corrections of all conditions which are found to be in violation of this Ordinance.

SECTION 1007 CORRECTION PERIOD *[Amended by Ordinance No. 2005-18]*

All violations shall be corrected within a period of time indicated by the Zoning Inspector in the written Order. Any violations not corrected within the specified period may be subject to prosecution.

SECTION 1008 PENALTIES

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Any person, firm, or corporation violating any provisions of this Zoning Ordinance, or supplements or amendments thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50.00 nor more than \$500.00. Each day's continuation of the violation of this Ordinance shall be deemed 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.

SECTION 1009 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complain, immediately investigate, and take action as provided by this Ordinance.

ARTICLE XI

BOARD OF ZONING APPEALS

SECTION 1101 GENERAL

A Board of Zoning Appeals is hereby created and shall have all the powers and duties prescribed by law and by this Ordinance.

SECTION 1102 COMPOSITION AND APPOINTMENT

The Board shall consist of three (3) members appointed by the Village Council. The members are not required to be residents of the incorporated area of the Village of Burbank. The term of office shall be three (3) years and the terms shall be so arranged that the term of one (1) member will expire each year. Members shall serve until their successors are appointed and qualified. Members shall be removable of the same causes and in the same manner as provided by Section 1003.02 of this Ordinance. Vacancies shall be filled by appointment of the Village of Burbank Council and shall be for the unexpired term.

SECTION 1103 ORGANIZATION

1103.01 Officers, Rules

The Board shall elect a Chairman from its membership, shall appoint a Recording Secretary and shall prescribe rules for the conduct of its affairs.

1103.02 Two (2) members of the Board shall constitute a quorum at all meetings. A concurring vote of two (2) members shall be necessary to effect an order, take action, make decisions or act on any authorization.

1103.03 The Board shall meet at the call of its Chairman and at such other times as it may determine. All meetings of the Board shall be open to the public.

1103.04 The Board Chairman or acting Chairman may administer oaths and the Board may compel the attendance of witnesses in all matters coming within the purview of the Board.

1103.05 The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Village Hall and shall be public record.

SECTION 1104 POWERS

The Board of Zoning Appeals shall have the following powers:

1104.01

- A. Administrative appeals as further described in Section 1105 below.
- B. Applications for variances as further described in Section 1106 below.

1104.02 Such other powers as described in this Ordinance including review of building sites in Flood Plain area in Section 401.

SECTION 1105 ADMINISTRATIVE APPEALS

The Board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Inspector in the enforcement of this Ordinance. Administrative appeals shall be reviewed in the manner specified in Section 1107.

SECTION 1106 VARIANCES

1106.01 General

The Board of Zoning Appeals shall have the power upon Application for a variance in specific cases to authorize variances from the terms of this Zoning Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this Ordinance will result in unnecessary hardship in applications for use variances or practical difficulties in applications for area, set-back, footage or other size-related variances and so that the spirit of the Ordinance shall be observed and substantial justice done. Applications for variances shall be reviewed in the manner specified below in Section 1107.

1106.02 Findings by the Board

The Board of Zoning Appeals shall state in writing its specific findings and the basis for approving or denying an application for variance.

1106.03 Supplementary Conditions

In granting a variance appeal, the Board of Zoning Appeals may impose such conditions as it may deem necessary to protect the public health, safety, and morals and in furtherance of the purposes and intent of the Ordinance and shall state all conditions in writing on the document granting the variance. The conditions shall be binding on the applicant and any owner of the property

SECTION 1107 PROCEDURE FOR ADMINISTRATIVE APPEALS AND VARIANCES

1107.01 General

- a. Appeals. An appeal to the Board of Zoning Appeals may be taken by any person, corporation or other legal entity adversely affected by any decision of the Zoning Inspector. The appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector a notice of appeal specifying the grounds upon which the appeal is taken or by any officer of the Village of Burbank. The Zoning Inspector shall transmit to the Board of Zoning Appeals the notice of the appeal and all papers constituting the record of the action which is appealed.
- b. Variations. Any owner of a property or authorized agent for the owner may apply to the Zoning Inspector for a variance from any terms of this Ordinance stating the specific reasons for the variance.

1107.02 Stay of Proceedings

An Appeal shall stay all proceedings in furtherance of the action appealed, unless the Zoning Inspector shall certify to the Board of Zoning Appeals after the notice of the appeal has been filed, that a stay would cause imminent peril to life or property. In such cases, proceeding shall not be stayed by other than a restraining order granted by the Board or by a court having lawful jurisdiction.

1107.03 Public Hearings and Notices

The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after the receipt of an appeal or an application for a variance from the Zoning Inspector. Notice of the hearing shall be published in a newspaper at least ten (10) days before the date of the public hearing. The notice shall state the time, place, and object of the public hearing. Notices shall be sent by regular U. S. Mail at least ten (10) days before the hearing to all parties involved in the appeal or the variance and to all property owners adjacent to or across the road from the subject property. The Board may recess and continue such hearing as the Board deems necessary, and if the time and place of the continued hearing is publicly announced at the time of the recess, no further notice shall be required.

1107.04 Assistance

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The Board may also seek assistance from any appropriate source.

1107.05 Decisions

Within twenty (20) days after the public hearing, the Board of Zoning Appeals shall either approve or disapprove the request for appeal or application for a variance. The Board's decision shall be transmitted to the applicant or appellant and to the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and shall be incorporated in any permit issued by the Zoning Inspector. Further appeal may be made to the appropriate court as provided by law.

ARTICLE XII

WIRELESS TELECOMMUNICATIONS REGULATIONS

SECTION 1201 PURPOSE

These regulations are established to provide for the construction and use of wireless telecommunications facilities in the Village. The regulations allow wireless telecommunication facilities as permitted use, or accessory use depending upon the specific land areas of the Village in which, and circumstances under which, they are proposed to be located. The purpose of these regulations is to balance the competing interests created by the Federal Telecommunications Act of 1996 (Public Law 104-104, codified at 47 U.S.C. 151 et seq.) and the interests of the Village in regulating wireless telecommunications facilities for the following reasons:

- A. To provide for orderly development within the Village;
- B. To protect property values;
- C. To maintain the aesthetic appearance of the Village, including, but not limited to, its unique residential character, historic character, unobstructed open spaces and attractive commercial/office areas;
- D. To protect residential properties, open spaces and non-intensive commercial zoning districts which are characteristic of the Village from adverse effects of towers and related facilities;
- E. To promote collocation of wireless telecommunications facilities in order to decrease the total number of towers in the Village;
- F. To provide for and protect the health, safety and general welfare of the residents and visitors of the Village; and,
- G. To maintain, where possible, the integrity of the existing zoning regulations contained in the Zoning Ordinance.

The regulations establish a hierarchy of acceptable land areas for the location of wireless telecommunications facilities through the establishment of such use as a permitted use in certain zoning districts, as a conditional use in certain zoning districts or as a permitted accessory use for erection of antennas only, which determination is dependent upon the location and characteristics of such land areas.

Where applicable, the regulation governing the wireless telecommunications facilities shall control where it is inconsistent with other provisions of the Zoning Ordinance. If no inconsistency exists between the provisions of this regulation and the provisions of the underlying zoning district, the underlying zoning district regulations and other provisions of this Zoning Ordinance shall remain in full force and effect and shall regulate all land use and development.

SECTION 1202 DEFINITIONS

As used in this section:

Collocation - the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Lattice - a support structure constructed of vertical metal struts and cross braces forming a triangular or square structure, which often tapers from the foundation.

Monopole - a support structure constructed of a single, self-supporting, hollow metal tube securely anchored to a foundation.

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Personal Wireless Services - commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined by federal law at 47 U.S.C. 332 c (7).

Technically Suitable - the location of a wireless telecommunication antenna(s) reasonably serves the purposes for which it is intended within the bandwidth of frequencies for which the owner or operator of the antenna(s) has been licensed by the Federal Communications Board (FCC) to operate without a significant loss of communication capabilities within developed areas of the Village.

Telecommunications - the technology that enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or magnetic systems and includes the term “personal wireless services.”

Wireless Telecommunications Antenna or Antenna or Antenna Array - the physical device or array of physical devices through which an electromagnetic, wireless telecommunication signal authorized by the FCC is transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

Wireless Telecommunications Equipment Shelter or Equipment Shelter - the structure or cabinet in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

Wireless Telecommunications Facility or Facility - a facility consisting of the equipment and structure involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines for the provision of personal wireless services.

Wireless Telecommunications Tower or Tower - any structure, other than a building, that elevates the wireless telecommunications antenna(s) and may include accessory transmission and receiving equipment.

SECTION 1203 APPLICABILITY

No person shall construct, erect, maintain, extend or remove a wireless telecommunications facility in the Village without compliance with the provisions of this Article.

SECTION 1204 USE REGULATIONS

A. Permitted Use

1. A wireless telecommunications tower shall be permitted in any interstate highway right-of-way.
2. A wireless telecommunications tower shall be permitted on or within an easement or parcel used for electric high-tension power lines on support towers.

B. Conditionally Permitted Use

1. A wireless telecommunications tower may be permitted as a conditional use in the areas indicated as commercial or industrial districts on the Zoning Map upon approval by the Board of Zoning Appeals through submission of an application to the Zoning Inspector, provided the applicant demonstrates compliance with each of the collocation requirements in subsection (B) (2) below, the requirements of Section 703 of the Zoning Code, as well as the standards set forth in Section 1205 of this Chapter.
2. Collocation
 - A. The applicant must demonstrate that there is not technically suitable space for the applicant’s antenna(s) and related facilities reasonably available on an existing tower, building or structure within the geographic area to be served. With the application, the applicant shall list the location of every tower, building or structure that could support the proposed antenna(s) or area where it would be technically suitable to locate so as to allow it to serve its intended function. The applicant must

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demonstrate that a technically suitable location is not reasonably available on an existing tower, building or structure. If another existing tower, building or structure is technically suitable, the applicant must demonstrate that it has requested to collocate on the existing tower and the collocation request was rejected by the owner of the tower, building or structure. In all circumstances, owners of existing towers shall promptly respond in writing to requests for collocation, but in no event shall they respond more than thirty (30) days from the date of receipt of a written request for collocation. If another tower, building or structure is technically suitable, the applicant must further show that it has offered to allow the owner of that other tower, building or structure to collocate an antenna on another tower, building or structure within the Village which is owned or controlled by the applicant, if any, on reasonably reciprocal terms and the offer was not accepted.

- B. All applicants for construction or erection of wireless telecommunications towers shall be required to construct on a base tower structure foundation that is designed to be buildable up to, but not including, two hundred (200) ft. above grade. Such structure shall be designed to have sufficient structural loading capacity to accommodate three (3) antenna platforms or antenna arrays of equal loading capacity for three (3) separate providers of service to be located on the structure when constructed to the maximum allowable height. The wireless telecommunications facility shall also be designed to show that the applicant has enough space on its site plan for an equipment shelter large enough to accommodate at least three (3) separate users of the facility. If an equipment shelter is initially constructed to accommodate one (1) user, space shall be reserved on site for equipment shelter expansions to accommodate up to at least three (3) separate users. Agreement to the provisions of this subsection must be included in the applicant's lease with the landowner, if different from the owner/user of the tower. Written documentation must be provided to the Zoning Inspector evidencing that the landowner of the property on which the tower is to be located has agreed to the terms of this subsection. As an additional condition of issuing a conditional use permit, the owner/user shall respond in writing to any inquiries regarding collocation of another user of the facility within thirty (30) days after receipt of a written inquiry. Copies of all written requests to collocate and all written responses shall be sent to the Zoning Inspector and the Board of Zoning Appeals.
- C. Permitted Accessory Use

The installation of a wireless telecommunication antenna(s) where the construction or erection of a tower is not proposed by the applicant, shall be permitted as an accessory use on existing buildings or structures in any of the commercial or industrial zoning districts in the Village.

In addition, all wireless telecommunications facilities shall not be located greater than one hundred (100) ft. above the roof line of an existing building or structure to which it is attached. All electronic and relay equipment for the wireless telecommunications antenna shall be housed within the existing building or structure, if possible. To the extent the remaining standards of this Chapter are applicable to the situation involving the installation of a wireless telecommunications antenna(s) on an existing building or structure, such standards shall govern the installation.

SECTION 1205 MINIMUM STANDARDS FOR CONSTRUCTION, ERECTION, MAINTENANCE AND REMOVAL

Except as otherwise provided in this Chapter, all wireless telecommunications facilities shall comply with the following standards:

A. Spacing

There shall be a separation of a minimum of one-half ($\frac{1}{2}$) mile between wireless telecommunications towers, including a separation of at least one (1) mile from any such tower located outside the Village's corporate limits.

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B. Height

The maximum height of a free standing wireless telecommunications tower, including its antenna and all appurtenances, shall be less than two hundred (200) ft. above grade. The height of any equipment shelter shall not exceed fifteen (15) ft. above grade. The maximum height of any wireless telecommunications antenna or equipment shelter, installed on an existing building or structure pursuant to Section 1204 C hereof, shall be no greater in height than fifteen (15) ft. above the roof line of the existing building or structure to which it is attached.

C. Setbacks

All wireless telecommunications towers shall be set back from property lines a distance of three hundred (300) ft. of all residentially zoned or used properties. Otherwise, all wireless telecommunications facilities, other than towers, shall comply with the required setbacks in the zoning district in which they are located. In no event shall a wireless telecommunications tower or facility be located in front of the principal building on the lot, if any, or in front of the front yard setback line as shown on the zoning map when no principal building is present on the lot.

D. Design

1. All wireless telecommunications towers shall be of a monopole design, as opposed to a lattice design. No guy wired towers shall be permitted. All wires and conduit serving antennas shall be located inside the tower.
2. All wireless telecommunications facilities shall be subject to review by the Board of Zoning Appeals for the purpose of enhancing the compatibility of the facilities with their surroundings. The color of a wireless telecommunications tower and antennas shall be as determined by the Board of Zoning Appeals for the purpose of minimizing its visibility, unless otherwise required by the FCC or the Federal Aviation Administration (FAA).
3. The wireless telecommunications antennas shall be of a panel design and mounted flush to the tower, building or structure which elevates the antennas, unless the applicant can demonstrate that it is not feasible from an engineering standpoint to use such antennas or to mount them in such a fashion.

E. Landscaping

A landscape buffer area of not less than twelve (12) ft. in depth shall be placed between the wireless telecommunications facilities and the public right-of-way and any adjacent properties from which there is a direct view of the facilities, other than the tower itself. The landscape buffer area shall have a tight screen fence of hardy evergreen shrubbery not less than eight (8) ft. in height. The landscaping shall be continuously maintained and promptly restored, if necessary.

F. Engineering Report

A report shall be prepared and submitted by a qualified and licensed professional engineer and shall provide proof of compliance with all applicable federal, state, county, and Village regulations. The report shall include a detailed description of the wireless telecommunications tower, antenna(s), equipment shelter, and appurtenances. The report shall certify that:

1. Radio frequency emissions are in compliance with the regulations of the FCC; and
2. The use of the facilities will not adversely effect or interfere with radio transmissions for public safety purposes.

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G. Maintenance

1. The applicant shall submit a plan documenting how the wireless telecommunications facility will be maintained on the site in an ongoing manner that meets industry standards.
2. On each biennial anniversary of the issuance of the building permit for a wireless telecommunications facility, or not more than ninety (90) days prior thereto, the owner/user shall submit to the Village a report prepared by a licensed professional engineer(s) which shall verify continued compliance of the facility with all governmental requirements including, but not limited to, the structural integrity and stability of any towers or antennas, electrical safety standards, and auxiliary power source safety standards.

H. Lighting Prohibited

Except as required by law, a wireless telecommunications antenna or tower shall not be illuminated and lighting fixtures or signs shall not be attached to the antenna or tower. If lighting is required by FAA regulations, the most visually non-obtrusive "state-of-the-art" lighting available shall be used, unless otherwise required by the FAA.

I. Security

1. A security fence not less than six (6) ft. in height, but not greater than ten (10) ft. in height, shall fully enclose those portions of the wireless telecommunications facility which come in contact with the ground. Gates shall be locked at all times.
2. A permanent warning sign with a minimum size of one (1) square foot and maximum size of three (3) sq. ft. shall be posted on the site, as well as an emergency telephone number of the owner/user of each set of antennas on the site. The owner/user shall also provide the Zoning Inspector, the Fire Department and the Village Police Department with information regarding whom to contact, an address, and a telephone number in the event of an emergency.

J. Outdoor Storage

There shall be no outdoor storage of equipment or other items on the wireless telecommunications facility site except during the facility construction period and to supply temporary emergency power to the facility only during a power outage.

K. Access to Facility

The access driveway to the wireless telecommunications facility shall, whenever feasible, be provided along with circulation driveways of the existing use on the lot, if any. Where use of an existing driveway is not feasible, the driveway to the facility shall be a minimum of eighteen (18) ft. in width with a minimum overhead clearance of eleven (11) ft. and shall be set back a minimum of twenty (20) ft. from the nearest side or rear lot line. This driveway shall meet the load limitations for fire equipment. If the access road to the facility is more than one thousand five hundred (1500) ft. from the public right-of-way, the Board of Zoning Appeals may determine, in its sole discretion, whether a turnaround shall be provided for emergency vehicles at the site and whether a by-pass, adequate for emergency vehicles, with an approachable access shall be provided per additional one thousand five hundred (1500) ft. of the driveway. There shall be a maximum of two (2) off-street parking spaces on the facility site.

L. Accessory Equipment Shelter

One (1) equipment shelter accessory to a wireless telecommunications tower or antenna shall be permitted on a lot. The maximum cumulative total size of all equipment shelters accessory to a wireless telecommunications tower or antenna at a facility shall not exceed seven hundred (700) sq. ft..

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The maximum height of an equipment shelter shall not exceed fifteen (15) ft. above the approved grade at the site for an equipment shelter with a pitched roof and a maximum height of ten (10) ft. above the approved grade at the site for an equipment shelter with a flat roof. The roof and façade of the equipment shelter shall be compatible as to architectural design and materials with the principal building on the lot, if any. Where it is technically feasible and reasonably practical, an existing building or structure on a lot shall be used to shelter the equipment associated with a wireless telecommunications facility. Any equipment shelter located on the roof of an existing building shall comply with Section 1304 C of this Chapter.

M. Under Grounding of Utilities

All utility lines from the utility source to the wireless telecommunications facility shall be underground.

N. Time Limit Commencement and Completion

After issuance of a building permit to construct a wireless telecommunications facility, the applicant shall commence construction within six (6) months and shall complete construction within one (1) year or the permit shall expire.

O. Abandonment and Removal of Facilities

1. The applicant for the wireless telecommunications facility shall be required as a condition of issuance of a building permit to post a cash or surety bond acceptable to the Village Solicitor of not less than one hundred dollars (\$100.00) per vertical foot from grade of the wireless telecommunications facility. If an access drive which is separate from the existing access drive on the property is required to be constructed for a wireless telecommunications facility, the owner/operator of the facility shall be required as a condition of issuance of a building permit to post a cash surety bond acceptable to the Village Solicitor of not less than twenty-five dollars (\$25) per linear foot of access drive. The bond(s) shall insure that an abandoned, obsolete or destroyed wireless telecommunications facility and/or access drive shall be removed within one hundred eighty (180) days of cessation of use or abandonment. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond, as principal, to insure that the bond will be in place during the period of time that the successor-in-interest or assignee occupies the facility.
2. The owner/user of the wireless telecommunications facility shall, on no less than an annual basis from the date of issuance of the building permit, file a declaration with the Board of Zoning Appeals as to the continuing operation of each of its facilities within the Village.
3. If, at any time, the use of the wireless telecommunications facility is discontinued for one hundred and eighty (180) consecutive days, the facility shall be deemed abandoned. The Zoning Inspector shall notify the owner/user in writing and advise that the facility must be reactivated within ninety (90) days or it must be dismantled and removed from the site and the site restored to a landscaped condition within the same ninety (90) day period, all at the cost of the owner/user. The owner/user shall have the right to appeal the Board of Zoning Appeals' decision to require removal of an abandoned facility to the Board of Zoning Appeals, pursuant to Section 1104 and 1106 of the Zoning Code.

SECTION 1206 FEES

In addition to any other fees required under the Village's Zoning Code and Building Code, the Zoning Inspector shall collect the following fees in connection with applications for facilities covered by this Chapter.

- A. New wireless telecommunications facility - Five hundred dollar (\$500.00) deposit upon which expenses incurred by the Village will be drawn and the unused balance, if any, returned to the applicant upon final inspection prior to authorization of commencement of the use.

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- B. New wireless telecommunications antenna(s) and related facilities (without a tower) - Two hundred dollars (\$200.00).
- C. Annual inspection fees - Fifty dollars (\$50.00).
- D. The applicant for a wireless telecommunications tower and/or antenna(s) facility shall be responsible for all expenses incurred by the Village for any technical and/or engineering services deemed necessary by the Zoning Inspector, the Board of Zoning Appeals, or the Board of Zoning Appeals to perform any reviews required by the Codified Ordinances which are not covered by the fees set forth in this Section.

SECTION 1207 EXEMPTION OF CERTAIN VILLAGE PROPERTY

Regardless of the provisions of this Chapter, a wireless telecommunications facility may be permitted on any property owned or controlled by the Village and used for public services and shall be constructed, erected, maintained, extended and removed under such conditions, standards and regulations as required by the Village Council.

SECTION 1208 WAIVER

- A. The Board of Zoning Appeals may waive provisions of this Chapter as applied to any wireless telecommunications facility application pending before the Board of Zoning Appeals for a conditional use, but only in areas permitted by this Chapter. The Board of Zoning Appeals shall make a determination on a proposed waiver of any provisions of this Chapter based on the following criteria:
 - 1. The public peace, health, safety, welfare or convenience will not be jeopardized or adversely affected;
 - 2. The use, value, development or enjoyment of neighboring property will not be adversely affected, or the health or safety of persons residing or working in the neighborhood will not be adversely affected;
 - 3. A public or private nuisance will not be created by reason of noise, smoke, odors, fire, vibrations, objectionable lights or congestion of traffic or persons;
 - 4. Traffic or safety hazards will not be created;
 - 5. The combination or accumulation of uses of the same nature in close proximity or in the same neighborhood will not adversely affect the public peace, health, safety, welfare or convenience, thereby adversely affecting neighboring property or creating a nuisance; or
 - 6. The proposed use will comply with other provisions or standards specified in the Codified Ordinances of the Village.
- B. The Board of Zoning Appeals' consideration of a waiver under this Section shall not be based upon the environmental effects of radio frequency emissions from the facility as long as the applicant's proposed facility will meet the FCC's requirements for such emissions.

ARTICLE XIII

DEFINITIONS

For the purpose of this Ordinance, certain words and terms are defined. The present tense shall include the future tense; the singular number shall include the plural; the plural shall include the singular; the word “structure” shall include “building”; the word “lot” shall include the word “plot”, “tract”, or “parcel” of land, as the sense may require it. The word “shall” and “must” are always mandatory and not directory. The word “erected” means constructed, altered, moved, or repaired. The word “used” or “occupies” as applied to any land or building shall be construed to include the words “intended”, “arranged,” or “designed to be used or occupied”, the word “district” is synonymous with the word zone.

Accessory Use or Building - A subordinate use or building customarily incident to and located on the same lot with the main use or building.

Administrative Official - Such municipal officers or persons as are by lawful procedure appointed or assigned to the enforcement or administration of this Ordinance.

Alley - Any public space or thoroughfare which has been dedicated or deeded to the public for public travel and which affords a secondary means of access to abutting property.

Alterations, Structural - Any change in the supporting members of a building such as bearing wall, columns, beams, or girders.

Apartment House - A multi-family dwelling for three or more families, living independently of each other and doing their cooking upon the premises.

Basement - That portion of a building, the floor of which is below the adjoining grade.

Billboard - See “Sign, Off-Premises”.

Buffer - An area of open space that separates one use of land from another.

Building - Any structure for the shelter, support, or enclosure of persons, animals, chattel, or property of any kind.

Building, Accessory - A subordinate building, or portion of a principal building, used for purposes incidental to those of the principal building on the same lot.

Building Height - The vertical distance from grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, and to the average height between the plate and ridge of a gable, hip or gambrel roof.

Building Inspector - See “Zoning Inspector”.

Building Line - A line defining the minimum front, side, and rear yard requirements outside of which no building may be located, except as otherwise provided herein.

Building Principal - The building on a lot used to accommodate the primary use to which the premises are devoted.

Building Setback Line - See “Minimum Building Setback Line”.

Clinic - Any building or other structure devoted to the health, medical, and dental diagnosis, treatment, and care of human outpatients.

Club - A building or portion thereof or premises owned or operated by a person for social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests.

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Commercial Vehicle - Any motor vehicle designed and used for carrying merchandise or freight, or used as a commercial tractor for drawing other vehicles designed and used for carrying freight, or are drawn by other motor vehicles.

Conditional Use - See "Use Conditionally Permitted".

Convalescent Home - A rest home or boarding home for the aged or mentally or physically infirm conducted within any abode, building, institutional residence or home used for the reception and care, for a consideration, for three or more persons who, by reason of age or mental or physical infirmities, are not capable of properly caring for themselves or who are sixty-five (65) years of age or over, and for which a license has been issued by the Department of Public Welfare of the State.

Density - A unit of measurement; the number of dwelling unites per acre of land.

Gross Density - The number of dwelling units per acre of the total land to be developed.

Net Density - The number of dwelling units per acre of land when the acreage involved included only the land devoted to residential uses.

District - Any area of land which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements, and height limitations.

Dwelling - Any building or portion thereof, designed or used exclusively for residential purpose.

Dwelling Unit - Space, within a dwelling, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing, and toilet facilities, all used by only one family and its household employees.

Dwelling, One-Family - A building designed for or occupied exclusively by one family.

Dwelling, Two-Family - A building designed for or occupied by not to exceed two families.

Dwelling, Multi-Family - A building designed for or occupied by more than two families.

Family - One or more persons, including servants, occupying a dwelling, and living as a single housekeeping unit.

Flood Plain - That land, including the flood fringes and the floodway, subject to inundation by the regional flood.

Flood, Regional - Large floods which have previously occurred or which may be expected to occur on a particular stream because of like physical characteristics. The regional flood generally has an average frequency of the one hundred year recurrence interval flood.

Floodway - That portion of the flood plain, including the channel, which is reasonably required to convey the regional floodwaters. Floods of less frequent recurrence are usually contained completely within the floodway.

Floodway Fringe - That portion of the Flood Plain, excluding the floodway, where development may be allowed under certain restrictions.

Floor Area for Living Purposes - The floor area for living purposes consists of living room, bedroom, bathroom, dining room, kitchen, den, library, and family room, but exclusive of porches, basements, terraces and garages.

Frontage - The property line abutting the principal street.

Garage, Private - An accessory building, designed or used for storage of not more than three (3) motor-driven vehicles or travel trailers and/or boats of the occupants of the premises in a Residential District.

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Garage, Public - A principal or accessory building, or part thereof, other than a private garage, used for temporary storage of motor driven vehicles to which no service shall be provided.

Gasoline Service Station - A building or part of a building or structure or space for the retail sale of gasoline, lubricants, and motor vehicle accessories and for minor services and repairs not accompanied by objectionable noises, fumes, dust, or odors.

Grade - The average level of the finished surface of the ground adjoining a building.

Height - See "Building Height".

Institution - A building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative, counseling, or other correctional services. Also a non-profit organization or non-profit establishment for public use.

Junk - Any worn out, cast off, litter or debris or discarded article or material which is ready for destruction or has been collected or stored at salvage or conversion to some use. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered junk.

Junk Yard - The use of more than twenty-five (25) square feet of the area of any lot, or the use of any portion of that half of any lot that joins any street, for the storage, keeping or abandonment of junk.

Landscaping - The use of natural materials (stones, shrubs, trees, etc.) in a planned fashion to enhance the visual appeal of a property.

Loading Space - An off street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lot - A parcel of land occupied or intended for occupancy by one (1) principal building, together with accessory building and customary incidental uses. It shall have its principal frontage on a street. Such "lot" shall include the yards and minimum lot area required by this Ordinance.

Lot, Calculation of Minimum Area - The area of lot is computed exclusively of any portion of any right-of-way existing or planned for any public or private road.

Lot Corner - A lot abutting on two (2) or more streets at their intersection, provided the interior angle formed thereby is less than one-hundred thirty-five (135) degrees.

Lot Coverage - The portion of the lot area that is covered by buildings.

Lot, Depth - The mean horizontal distance between the front and rear lot lines.

Lot, Interior - A lot other than a corner lot.

Lot Lines - Lines bounding a lot.

Lot Width - The horizontal distance measured between the side lot lines along the minimum building setback lines.

Lot of Record - A lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of the County; or a parcel of land, the deed to which was of record on or prior to the actual date of this Ordinance.

Minimum Building Setback Line - A line parallel to the street right-of-way line at such distance from the street right-of-way line as required by the minimum front yard depth in the district in which it is located. Where the right-of-way is not established it shall be assumed to be fifty (50) feet.

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Mobile Home - Any non self-propelled vehicle designed, constructed, reconstructed, or added to by means of accessories in such a manner as will permit the use and occupancy thereof for human habitation, when connected to utilities, whether resting on wheels, jacks, blocks, or other temporary foundation and used or so constructed as to permit its being used as a conveyance upon the public streets and highways.

Mobile Home Park - A plot of ground upon which mobile homes, occupied for dwelling or sleeping purposes, are located.

Non-Conforming Use - Use of any building, structure or land contrary to the use regulations of the district in which such building, structure or land is situated.

Outdoor Advertising Billboard - See “Sign, Off Premises”.

Parking Space - A permanently surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a permanently surfaced driveway connecting the parking space with a street, and permitted ingress and egress of an automobile.

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

Rooming House - Any dwelling in individually or as families, are housed or lodged for hire, with or without meals. A boarding house or furnished room house shall be deemed a “rooming house”.

Screening - The use of natural or man-made barrier to partially or completely obstruct the view between adjacent properties.

Seat - For the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed, or each twenty-four lineal inches of benches, pews, or space for loose chairs.

Sign, Free Standing - A sign not attached to a building.

Sign, Off Premises - Any sign unrelated to a business or profession conducted upon, or a commodity or service sold or offered upon the premises where such sign is located.

Sign, On Premises - Any sign related to a business or profession conducted upon, or a commodity or service sold or offered upon the premises where such sign is located.

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

Story, half - A story with at least two (2) opposite exterior sides meeting a sloping roof not more than two (2) feet above the floor of such story.

Street - A publicly or privately owned strip of land sixty (60) feet or more in width between property lines, which provides or is intended to provide public vehicular and pedestrian access to adjacent properties.

Street Right-of-Way Lines - A line between a 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 or land reserved for street purposes.

Structure - Anything constructed or erected, the use of which requires location on the ground, including signs and billboards.

Usable Open Space - The required portion of a lot excluding the required front yard area, which is unoccupied by principal or accessory buildings and available to all occupants of the buildings for the use for recreational and other leisure activities normally carried on outdoors. This space shall be unobstructed to the sky and shall not be devoted

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to service driveways or off street parking or loading space and shall be twenty (20) feet in least dimension on the ground. Balconies at least four (4) feet, six (6) inches wide, roof areas at least five (5) feet high between the open space and adjacent property may also be counted as usable open space.

Use - The specific purpose for which land or a building is designed, arranged, or intended, or for which it is or may be occupied or maintained.

Use, Conditionally Permitted - Uses which may be permitted by issuance of a Conditional Zoning Certificate by the Board of Zoning Appeals provided that the Board of Zoning Appeals finds that the proposed conditional use is listed in the conditional uses in the district and that the conduct of the use meets both the general and specific requirements listed in Article VII.

Variance - A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

Yard - A required open space other than a court unoccupied and unobstructed by any building or portion of a building from three (3) feet above the general ground level of the graded lot upward; provided, however, that accessories, ornaments, and furniture may be permitted in any yard; subject to height limitations and requirements limiting obstruction of visibility.

Yard, Front - A yard extending between lot lines across the front of a lot and from front lot line to the front of the primary building.

Yard, Side - A yard extending from the principal building to the side lot lines on both sides of the principal building between the lines establishing the front and rear yards.

Zone - Synonymous with "District"

Zoning Ordinance - A composite of the zoning text which describes the specific regulations for both private and public uses within each use district, and Zoning Districts Map which indicates graphically and precisely the location and extent of district or zone boundaries.

Zoning Inspector - The person employed to enforce this Zoning Ordinance in accordance with administrative provisions herein set forth.