

**NEWTOWN ZONING CODE
TABLE OF CONTENTS**

CHAPTER 1 GENERAL PROVISIONS

1.0	Preamble	4
1.1	Title.....	4
1.2	Interpretation of Standards.....	4
1.3	Severability	4
1.4	Rules for Text Interpretation.....	4

CHAPTER 2 DEFINITIONS

2.0	Definitions.....	6
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CHAPTER 3 DISTRICT ESTABLISHMENT AND MAP

3.0	Division of Village into Districts.....	29
3.1	Official Zoning Map	29
3.2	Interpretation of District Boundaries	29
3.3	Lot Divided, Extension of District.....	29
3.4	Vacated Street or Alley	30
3.5	Annexations	30
3.6	Conformance with Regulations.....	30

CHAPTER 4 DISTRICT USES AND SUPPLEMENTAL REGULATIONS

4.0	District Purposes	31
4.1	Use Provisions	32
4.2	Use Table	33
4.3	General Supplemental Regulations.....	37
4.4	Agricultural and Residential Supplemental Regulations	41
4.5	Commercial Supplemental Regulations.....	44
4.6	Accessory Supplemental Regulations.....	52
4.7	Temporary Supplemental Regulations.....	56
4.8	Non-Conforming Uses	59

CHAPTER 5 OVERLAYS AND SPECIAL DISTRICTS

5.0	Historic Overlay District	61
5.1	Planned Unit Development	66

CHAPTER 6 DIMENSIONAL STANDARDS AND MODIFICATIONS

6.0	Dimensional Standards	71
6.1	Height Modifications	77
6.2	Frontage and Yard Modifications and Projections	77

CHAPTER 7 BUFFER YARDS AND LANDSCAPING

7.0 Purpose.....81
7.1 Applicability81
7.2 General Requirement for Submission.....81
7.3 Approval82
7.4 Buffer Yard Standards and Screen Standards.....82
7.5 Screening and Buffering Required.....83
7.6 Buffer Yard Requirements.....84
7.7 Modification.....86

CHAPTER 8 PARKING AND LOADING

8.0 General Requirements.....87
8.1 Off-Street Parking and Design Standards.....87
8.2 Determination of Required Spaces90
8.3 Outdoor Lighting90
8.4 Parking Space Requirements90
8.5 Joint or Collective Parking Facilities.....92
8.6 Handicapped Parking Requirements.....93
8.7 Off-Street Loading Space Requirements93
8.8 Off-Street Loading Design Standards.....93
8.9 Submission to Planning Commission94
8.10 Pavement in Required Front Yards of Residential Uses.....94

CHAPTER 9 SIGN REGULATIONS

9.0 Purpose.....95
9.1 Application of Chapter.....95
9.2 Prohibited Signs.....96
9.3 Signs Exempt from Chapter.....97
9.4 Signs Partially Exempt from Chapter97
9.5 Signs Allowed in the Right of Way and on Public Property98
9.6 Temporary Signs.....99
9.7 General Provisions.....101
9.8 Permitted Signs in Non-Residential Districts102
9.9 Permitted Signs in P-V Planned Village Districts105
9.10 Signs Permitted in Residential Zoning Districts.....107
9.11 Signs in a Planned Unit Development109
9.12 Maintenance of Signs.....109
9.13 Sign Permit Applications and Fees.....109
9.14 Permit Decision, Variance, and Appeal Process.....109
9.15 Rights Reserved by the Village.....110
9.16 Enforcement.....110

CHAPTER 10 ADMINISTRATION

10.0 Purpose.....111
10.1 Responsibilities of the Building Commissioner111
10.2 Village Planning Commission112
10.3 Conditional Use Permits113
10.4 Village Council115
10.5 Text Amendments and Changes of Zoning Districts116
10.6 Site Plan Review117
10.7 Board of Zoning Appeals.....120
10.8 Zoning Certificates.....125

CHAPTER 11 ENFORCEMENT

11.0 Enforcement by Village Building Commissioner.....127
11.1 Revocation of Zoning Certificate.....127
11.2 Schedule of Fees127

CHAPTER 12 VIOLATION AND REMEDIES

12.0 Violation128
12.1 Notice of Violation128
12.2 Remedies.....128

CHAPTER 1 GENERAL PROVISIONS

1.0 Preamble

An ordinance of the Village of Newtown enacted in accordance with a comprehensive plan and for the purpose of promoting the public health, safety, morals, convenience, and general welfare, establishing land use classifications, dividing the Village into districts, imposing regulations, restrictions, and prohibitions on the use and occupancy of real property, limiting the height, area, and bulk of buildings and other structures, providing for yards and other open spaces around them, establishing standards of performance and design, and providing for the administration and enforcement thereof.

1.1 Title

This Code shall be known and may be cited and referred to as the Zoning Code of the Village of Newtown, Ohio.

1.2 Interpretation of Standards

In their interpretation and application, the provisions of this Code shall be held to be minimum requirements. Wherever this Code imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations, or ordinances, the provisions of this Code shall govern.

1.3 Severability

Should any section or provision of this Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Code as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

1.4 Rules for Text Interpretation

In the interpretation of the text of this Code, the rules of interpretation contained in this Section shall be observed and applied, except when the context clearly indicates otherwise. The following rules shall apply to the text:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text and any table, the text shall control.
- C. The word “shall” shall be mandatory and not discretionary. The words “may” or “should” shall be permissive.

- D. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for”, or “occupied for”.

CHAPTER 2 DEFINITIONS

2.0 Definitions

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

A.

Accessory, Recreation Use. Any recreational use that is generally accessory and subordinate to a principal use, such as, but not limited to swimming pools, play structures, and trampolines for residential uses; or swimming pools, sports courts, or sports fields for non-residential uses.

Accessory, Retail Sale. A retail sales use that is subordinate to a principally permitted use, such as the sale of food and goods.

Accessory, Structure. A subordinate and incidental structure detached from the principal building (such as a detached garage or shed), located on the same lot or on an adjacent lot of common ownership. An accessory structure does not share a common wall or foundation with the principal building. Accessory structures may be located on a separate lot from the principal structure only when the lots are under the same ownership and are developed and used as one cohesive lot. In such cases, the lots may not be subdivided further or sold to result in the principal structure and the accessory structure to be on separate lots with different ownership. Additionally, existing properties may not be subdivided to create separate lots for a principal building and an accessory structure.

Accessory, Use. A use located on the same lot with a principal building, which is subordinate and related to the use of the principal building or use of land.

Accessory, Warehousing. A secondary and subordinate use to an industrial or commercial use where raw materials, parts, or finished manufactured goods may be stored before their export or distribution. Such storage shall be within a building.

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

A. Adult Book Store

An establishment deriving a majority of its gross income from the sale or rental of or having a majority of its stock in trade in, books, magazines or other periodicals, films or mechanical or non-mechanical devices, which constitute adult materials.

B. Adult Material

Any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture film, phonographic record or tape, other tangible thing, or any service, capable of arousing interest through sight, sound, or touch and:

1. Which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions or elimination; or,
2. Which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions or elimination.

C. Adult Motion Picture Theater

An enclosed motion picture theater or motion picture drive-in theater used for presenting, and deriving a majority of its gross income from, adult material for observation by patrons therein.'

D. Adults Only Entertainment Establishment

An establishment which features services which constitute adult material, or which features exhibitions of persons totally nude, topless, or bottomless, or strippers, male or female impersonators, or similar entertainment which constitute adult material.

Agriculture. The use of land for agricultural purposes, including farming of crops, horticulture, floriculture, viticulture, raising and boarding of livestock, and the necessary accessory uses for packing, treating, or storing the produce; however, the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

Alley. Any public or private thoroughfare less than 30 feet wide affording only secondary means of access to abutting properties.

Apartment. See **Dwelling, Multi-family.**

Assisted Living Facility. A long-term care facility that provides housing, personalized support services, and health care designed to meet the individual needs of persons who need help with the activities of daily life such as meals, medication management, or assistance with bathing and dressing, but do not need the degree of medical care provided in a skilled nursing facility.

Automatic Teller Machine (ATM). An electronic device used by the public for conducting financial transactions such as withdrawing or depositing cash from a bank, savings, credit union, credit card, or similar account wherein the customer operates the device independently. Temporary ATMs are not permitted.

Automotive Filling Station. Any building or land area used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use, the sale and installation of lubricants, tires, batteries, and similar accessories.

Automotive Sales Area or Trailer Sales Area. An open lot, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

Automotive Service Station. Any general repair or the replacement of parts of motor vehicles or trailers.

Automotive Wash or Automatic Car Wash. A building or structure where chain conveyors, blowers, steam cleaners, or other mechanical devices are employed for the purpose of automatically or manually washing motor vehicles.

Automotive Wrecking Yard. The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts.

B.

Basement. A story partly underground and having at least one-half of its height above the average adjoining grade.

Bed and Breakfast Establishment. Any owner-occupied dwelling unit that contains no more than four rooms where lodging, with or without meals, is provided for compensation.

Block. In describing the boundaries of a district, **Block** refers to the legal description. In all other cases, **Block** refers to the property abutting on one side of a street between two intersecting streets or a street and a railroad right-of-way or watercourse.

Board. The Board of Zoning Appeals of the Village of Newtown.

Brewery, Distillery, Winery, Cidery (Macro). Brewery, distillery, winery, or cidery that produces more than 15,000 barrels per year and may distribute outside the region. Such uses may include accessory uses including tap/tasting rooms, food service, retail sales of merchandise and alcohol, entertainment space for live music, and other similar uses.

Brewery, Distillery, Winery, Cidery (Micro). A limited production brewery, distillery, winery, or cidery that produces 15,000 barrels or less per year and that typically produces specialty beers, spirits, wines, or ciders that are generally sold locally. Such uses may include accessory uses including tap/tasting rooms, food service, retail sales of merchandise and alcohol, entertainment space for live music, and other similar uses.

Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or property.

Building, Height of. The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs.

Building Line. The line, parallel to the street line, beyond which no building or part thereof shall project.

Buildable Lot Area. The portion of a lot remaining after required yards have been provided.

Bulk Storage or Display. The display of two or more items which are identical or nearly identical. Examples include, but are not limited to, raw materials, firewood, mulch, fertilizer, building materials, building maintenance products, packaged food products, soft drinks, salt products, furniture and household goods, statuary, and other manufactured concrete products, and like items.

Business Services. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, building maintenance, employment services, management and consulting services, protective service, equipment rental and leasing (without outdoor storage), commercial research, development and testing, photo finishing, and personal supply services.

C.

Cellar. An enclosed space within the foundation walls of a building and having more than one-half of its height below the average adjoining grade.

Cellular/Personal Communications Antenna. Any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, computers, or other personal communications devices and ground-wired communications systems, including both directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips, and other equipment utilized to service personal communication services.

Cellular/Personal Communications Services Site. A tract, lot or parcel of land that contains the cellular communications tower, antenna, support structure(s), parking and any other uses associated with and ancillary to cellular/personal communications services transmissions.

Cellular/Personal Communications Services Support Structure. Any building or structure accessory to, but necessary for the proper functioning of the cellular/personal communications antenna or tower.

Cellular/Personal Communications Services Tower. Any freestanding structure used to support a cellular/personal communications services antenna. The height of a Cellular/Personal Communications Services Tower shall be measured from the base of the structure to its top, including any antenna located thereon.

Cemetery. Land used or intended to be used for the burial of human dead and dedicated for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries, if operated in connection with, and within the boundaries of, such Cemetery.

Check Cashing, Short-Term Loans. A business that for compensation engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. Check cashing also includes a facility that provides loans to individuals in exchange for personal checks as collateral. The term “check cashing” does not include a state or federally regulated bank or credit union.

Circus. A temporary amusement show, usually consisting of a company of performers, animals, or other amusements, and usually traveling from place to place, used for commercial profiting purposes.

Clinic. A place used for the care, diagnosis, and treatment of sick, ailing, infirm, and injured persons who need medical or surgical attention, but who are not provided with board or room nor kept overnight on the premises.

Club. A building or portion thereof or premises owned or operated by a corporation, association, or group of persons for a social, educational, recreational, charitable, political, patriotic, or athletic purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Commercial Communication Antenna. A tower, pole, or other similar device erected on the ground or rooftop for the purpose of transmitting or receiving radio, micro, cellular, or other electromagnetic waves between terrestrial and orbital uses.

Commercial Trailer. A non-motorized vehicle that is towed by a motorized vehicle and which is designed for carrying commercial/business property or goods.

Commission. The Village Planning Commission of the Village of Newtown, Ohio.

Community and Cultural Facility. An establishment housing a public or non-profit agency that provides counseling, therapy, or other social or human services due to physical, mental, emotional, or other disability or hardship.

Conditional Use. A use which is permitted in a district only if a zoning certificate therefore is expressly authorized by the Planning Commission in accordance with Section 4.8.

Conference Center. A facility which can be used for conferences and seminars, which may have accommodations for sleeping, food preparation, eating, recreation, entertainment, resource facilities, and meeting rooms.

Construction Dumpster. A container having the capacity of at least one cubic yard used for the temporary storage of rubbish or materials to be disposed, recycled, composted, or donated pending collection.

Council. The Village Council of the Village of Newtown, Ohio.

Court. An open, unoccupied, and unobstructed space, other than a yard, on the same lot with a building or group of buildings, which is enclosed on three or more sides and is fully open to the sky.

D.

Day Care Center. A building or structure where care, protection and supervision are provided on a regular schedule, for a fee, at least twice a week, to at least five persons at one time, including any relation of the day care provider.

Distribution Facility. A facility involving processing, repackaging, and/or movement of finished or semi-finished goods to retail locations.

District. A portion of the territory of the Village, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter. The term R-District means any R-SF, R-TF, or R-MF District.

Drive-thru/Drive-in/Pick-up Windows. Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

Dwelling or Dwelling Unit. Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more families, but not including a tent, cabin, trailer, trailer coach, boarding house, rooming house, hotel, or mobile home.

Dwelling, Multi-Family. A building or portion thereof designed for or used by three or more families or housekeeping units, living independently of each other, with cooking and sanitary facilities in each dwelling unit.

Dwelling, Secondary. A second independent dwelling attached or detached to the primary single family dwelling, housing a relative related by blood or marriage on the same lot.

Dwelling, Short-Term Rental. A building or part thereof, other than a hotel or motel, where lodging is provided by a resident family for compensation, for established periods of time agreed upon by the resident family and guest, but generally not longer than 30 days.

Dwelling, Single-Family Attached. A building designed or arranged for use by a single family consisting of one dwelling unit only, sharing at least one wall with another dwelling unit. Such uses shall have an individual entrance to the outdoors.

Dwelling, Single-Family Detached. A building designed or arranged for use by a single family consisting of one dwelling unit only, separated from other dwelling units by open space.

Dwelling, Two-Family. A building designed for or used exclusively by two families or housekeeping units, living independently of each other, with cooking and sanitary facilities in each dwelling unit.

Dwelling, Upper Story. One or more dwelling units located above the first floor where allowed within a commercial district.

E.

Eating and Drinking Establishment. A retail establishment selling food and drink for consumption on the premises, including lunch counters and refreshment stands selling prepared foods and drinks for immediate on-site consumption.

Educational Institution. A facility that provides a curriculum of elementary or secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools, and technical and collegiate level schools.

Entertainment Establishment. A use that provides facilities specifically intended for live theatrical, musical, or dance performances; or the showing of motion pictures. Excludes any uses or activities defined under Adult Entertainment Facility.

Essential Services and Utilities. The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public health, safety, or general welfare.

F.

Family. One or more individuals living together as a single housekeeping unit in a dwelling and maintaining and using the same and certain other housekeeping facilities in common.

Fence. An artificial barrier made of wire, wood, metal, masonry, or other material typically used as fencing or determined appropriate by the Building Commissioner, used as a screen, enclosure, or divider intended to prevent escape or intrusion, to mark a boundary, or to enclose an area for a yard or open space. The term Fence includes a wall, gate or other structure used as a fence, but does not include underground containment mechanisms, such as “invisible fences” for pet containment.

Festival. A temporary civic, recreational, fund-raising, or promotional activity or event that typically has a specific focus with its own social activities, food, music, or ceremonies. Such use typically takes place in a specified location and on a specific day or days.

Financial Institution. Any building, property, or activity of which the principal use or purpose is the provision of financial services, including but not limited to, banks, facilities for automated teller machines (ATMs), credit unions, savings and loan institutions, and mortgage companies.

Floor Area. The sum of the gross horizontal areas of each floor of the principal building, measured from the exterior walls or from the center line of party walls, including the floor area of accessory buildings and structures.

Floor Area Ratio. The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

Frontage. All the property abutting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of a dead-end street, or Village boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts. The Frontage of a lot shall be measured along the front property line.

Fulfillment Facility. A third-party logistics warehouse that receives products and goods from suppliers, processes orders from e-commerce retailers, and ships products directly to individual consumers.

Funeral Home. Any dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

G.

Garage, Private. A detached accessory building or portion of the principal building, including a carport, used only for the storage of automobiles or trailers by the family resident on the premises.

Garage, Public. A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair, or refinishing of automobiles or trailers.

Garden Center, Greenhouse, and Nursery. An establishment primarily engaged in the growing and selling of plant materials and landscaping related products including trees, shrubs, flowers, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies. This use includes the growing of nursery stock, annually or perennial flowers, vegetables, or other garden or landscaping plants of any kind within a greenhouse.

Government Facility. Any buildings, structure, or use, or portion thereof, used by a governmental agency for administrative or service purposes, but not including buildings devoted solely to the storage and maintenance of equipment and materials.

H.

Hedge. A growth of shrubbery planted to function as a boundary, fence, or screen.

Heliport. An area on the ground or on a roof used by helicopters or steep gradient aircraft to pick up or discharge passengers or cargo.

Home Occupation. Any occupation or profession conducted entirely within a dwelling and carried on by the inhabitants thereof, which is an accessory use clearly incidental and secondary to the use of the structure for dwelling purposes. Home Occupation shall not include any retail or wholesale business of any kind or any similar intensity of activities regardless of remuneration involving in-person transactions on the premises.

Hospital. An institution providing health services primarily for inpatient medical or surgical care for sick or injured persons, including related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices that are an integral part of the facilities.

Hotel. A facility with room entrances accessed through an interior corridor, offering transient lodging accommodations on a daily rate to the general public and possibly providing additional services, such as restaurants, meeting rooms, and recreational facilities.

I.

Impervious Surface Ratio. A measure of the intensity of land use determined by dividing the total area of all impervious surfaces on the site by the area of the site or lot.

Industry. Any storage, manufacture, preparation, or treatment of any article, substance, or commodity for commercial use.

Institutional Use. A building, structure or land owned or operated publicly or by a non-profit or religious institution (or entity) used for educational, religious, or similar types of purposes. This includes, but is not limited to, schools, universities, churches and other places of worship, and cemeteries.

K.

Kennel. Any lot or premises on which four or more domesticated animals more than four months of age are housed, groomed, bred, boarded, trained, sold, or which offers provisions for minor medical treatment of animals.

Kitchen. Any room in a building or dwelling unit which is used for cooking or preparing food.

L.

Land Use Plan or Comprehensive Master Plan. The Comprehensive Plan Update of the Village of Newtown as adopted by Village Council indicating the desirable use of land in the Village as officially adopted and as amended by the Village Planning Commission. Such plan serves as a guide in the zoning and progressive changes in zoning of land to meet the changing needs, in the subdivision and use of undeveloped land, and in the acquisition of rights-of-way or sites for public purposes such as streets, parks, schools and public buildings.

Landscape and Tree Service Business. Are those establishments primarily engaged in providing landscape care and maintenance services and/or installing trees, shrubs, plants, lawns, or gardens and establishments primarily engaged in providing these services along with the design of landscape plans and/or the construction (i.e., installation) of walkways, retaining wall, decks, fences, ponds, and similar structures (excluding retail sales).

Livestock. Livestock includes cattle, sheep, horses, goats, pigs, and other domestic animals ordinarily raised or used on the farm.

Loading Space. An off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot. A piece or parcel of land occupied or intended to be occupied by a principal building or a group of buildings and accessory buildings or utilized for a principal use and uses accessory thereto, together with such open spaces required by this chapter, and having frontage on a public street.

Lot Area. The computed horizontal area contained within the lot lines.

Lot, Corner. A lot abutting on two or more streets at their intersection or on two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.

Lot Depth. The average horizontal distance between the front and the rear lot lines.

Lot Line, Front. The line separating the lot from the street on which it fronts.

Lot, Interior. A lot other than a corner lot and with frontage on one street.

Lot Lines. The property lines bounding the lot.

Lot Line, Rear. The lot line opposite and most distant from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lot Line, Street or Alley. A lot line separating the lot from a vehicular public or private right-of-way.

Lot of Record. A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Hamilton County, Ohio, or a lot described by metes and bounds, the description of which has been recorded in such office.

Lot, Through. A lot having frontage on two parallel or approximately parallel streets.

Lot Width. The width of the lot measured at right angles to the building setback lines.

M.

Manufacturing. The process of making or fabricating raw materials by hand, machinery or the combination thereof into finished parts or products.

Manufacturing, Artisan. An establishment or business where an artist, artisan, or craftsperson teaches, makes, or fabricates crafts or products by hand or with minimal automation; and which may include direct sales to consumers. This definition includes uses such as small-scale fabrication but is not limited to, manufacturing, and other industrial uses and processes such as welding and sculpting.

Manufacturing, Heavy. The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than minimal impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent properties in terms of truck traffic, railroad activities, noise, smoke, fumes, visual impact, odors, glare, or health and safety hazards, or that otherwise do not meet the definition of “Light Manufacturing”. This use may include outdoor storage and activities.

Manufacturing, Light. A use engaged in assembling, altering, converting, fabricating, finishing, processing, or treatment of a product utilizing a relatively clean and quiet process which does not include or generate objectionable or hazardous elements such as smoke, odor, vibration, water pollution, or dust and which is operating and storing products and materials in a completely enclosed structure.

Medical Laboratory. A facility for medical, optical, orthotic, prosthetic, or dental laboratory service, photographic, analytical, or testing services and scientific research facilities.

Medical Marijuana. Marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose, regardless of whether such marijuana is, or is not, in a form or intended for incorporation into a form permitted under Ohio Revised Code Section 3796.06.

Medical Mobile Use. A vehicle used for the following: blood donations, immunization, medical evaluation, imaging, diagnostic or testing procedures. It does not include massage or any type of surgery.

Medical Office. Offices organized as a unified facility for licensed physicians, dentists, chiropractors, nurse practitioners, licensed medical massage practitioners, or other health care professionals providing diagnosis or care of sick or injured persons but are not provided with room and board and are not kept overnight on the premises. Medical services and medical clinics include medical and dental laboratories incidental to the medical office use.

Membrane Structure. Air supported or inflated, membrane-covered cable, frame, or tensioned structures, including circus and carnival tents, entertainment, recreational and food service establishments, and other similar structures.

Mobile Food Vendor. A food service operation or retail food establishment that is operated from a food truck, food trailer, pedi-food cart, or pushcart, and that can or does routinely change location, but will be fixed on-site. For the purposes of this definition a mobile food vending unit excludes food delivery operations and vending machines.

Mobile Storage Structures. Any container, storage unit, shed-like container or other similar portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside of an enclosed building. A POD unit is a type of Mobile Storage Structure.

Motel. A facility with exterior room entrances, offering transient lodging accommodations on a daily rate to the general public and perhaps providing additional services, such as restaurants, meeting rooms, and recreational facilities.

N.

Non-conforming Use. Any building, structure, or premises legally existing or used at the time of adoption of this chapter, or any amendment thereto, and which does not conform to the use regulations of the district in which located. Any such building, structure, or premises conforming in respect to use but not in respect to height, area, yards, or courts, or distance requirements from more restricted districts or uses, shall not be considered a nonconforming use.

Nursery School. Any building used routinely for the daytime care and education of preschool age children.

O.

Office. A building or portion of a building wherein services are performed involving predominately administrative, professional, or clerical operations.

Open Space. Land used for resource protection, recreation, amenity and/or buffers.

Outdoor Bulk Storage. The keeping, in an enclosed or unenclosed area, of any goods, junk materials, merchandise or vehicles in the same place for more than 24 hours.

Outdoor Dining. A porch, patio, deck, or other area used for consumption of food and/or beverages by the public which is not completely enclosed within the exterior building walls, windows and doors of a limited restaurant, full service restaurant or a drinking establishment, and which may or may not have a solid roof cover.

P.

Park or Parkland. Any land owned by the public and open for use by the general public for active or passive recreational purposes or as a refuge for wildlife.

Parking Area, Private. An open area, other than a street or other public way, used for the parking of automobiles on a private lot, and which is not available for public parking.

Parking Area, Public. An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free, or as an accommodation for clients or customers.

Parking Space. A paved area of not less than 162 square feet and having a width of not less than nine feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of motor vehicles.

Performance Standard. Criteria established in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases, and other objectionable or dangerous elements generated by and inherent in or incidental to land uses.

Permitted Use. A use which is permitted outright in a district for which a zoning certificate shall be issued by the Zoning Administrator provided that the applicant meets the applicable requirements of the Code.

Permitted with Standards. A use which is allowed by-right in the respective zoning district if it meets the additional standards. Permitted uses with standards are subject to all other applicable regulations of the Code.

Personal Services. Establishments primarily engaged in providing services involving the care of people or their personal goods or apparel, such as normally conducted by a barber, beautician, tailor, dressmaker, doctor, attorney, architect, or a photocopy duplication center.

Pet. A domestic animal that is customarily kept for personal use or enjoyment within the home. Typical household pets include, but are not limited to, cats, dogs, rabbits, and birds.

Pharmacy. An establishment or institution in which drugs, medicines, or medicinal chemicals are dispensed or offered for sale. This use does not include medical marijuana dispensaries, which are prohibited in the Village of Newtown.

POD. Any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements.

Printing and Publishing Establishment. Establishments that provide duplicating services using photocopy, blueprint and/or offset printing equipment, including the collating of booklets and reports. Copy service centers or self-service copy centers that primarily utilize photocopy machines as their source of duplication are not printing and related trades.

Prohibited Use. A use that is prohibited in the respective zoning district.

Public Building. A structure or portion of a structure owned, operated, or controlled by a government agency for the performance of certain specialized governmental activities required for day-to-day functions.

R.

Recreation, Private, Indoor and Outdoor. Facilities for sports and recreation activities that are operated as a business such as bowling, skating, swimming, indoor and outdoor sports courts and facilities, golf courses and driving ranges, and similar activities.

Recreation, Public, Indoor and Outdoor. Facilities for sports and recreation activities that are operated by a governmental or non-profit agency or organization, open to the general public with or without a fee such as swimming pools, sports courts and fields, picnic areas, bike/hike trails, public golf courses, amphitheaters, community centers, and playgrounds.

Recreation, Passive. The use of unimproved land, in its natural state and open to the general public, which provides for a variety of activities for the outdoor exercise and activity needs of the community. Passive recreational areas shall include, but are not limited to unimproved backpacking trails, unimproved hiking trails, primitive camping areas, canoeing, swimming, rafting, scientific and scholastic studies. Lands may be improved for handicapped access.

Recreational Vehicle. Recreational vehicle shall be defined as any of the following: any privately owned boat, boat trailer, folding tent trailer, personal watercraft, motorized home, pick-up camper, snowmobile, travel trailer, a three or four wheel all-terrain vehicle or other similar equipment.

Religious Facility. An institution that a congregation of people regularly attend to participate in or hold religious services, meetings, and other activities, including buildings in which the religious services of any denomination are held.

Renewable Energy. A product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including solar, wind, geothermal, or hydropower.

Research and Development Laboratory. A building in which scientific research, investigation, testing, or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental to the main purpose of the laboratory.

Residential Facility. A residential dwelling or facility that falls into one of the following categories:

- A. Provides accommodations, supervision, personal care services, and mental health services for one or more unrelated adults with mental illness or one or more unrelated children or adolescents with severe emotional disturbances.
- B. Provides accommodations, supervision, and personal care services to any of the following:
 - 1. One or two unrelated persons with mental illness,
 - 2. One or two unrelated adults who are receiving payments under the residential state supplement program,
 - 3. Three to 16 unrelated adults.

4. Provides room and board for five or more unrelated adults with mental illness.

This use does not include opioid treatment programs or housing for re-entry from being jailed

Residential Facility (Small). A residential facility that is designed for and occupied by five or fewer residents living together.

Residential Facility (Large). A residential facility that is designed for and occupied by six or more residents living together.

Residential Treatment Facility. A residential dwelling or facility where persons are living together, with or without staff, as a single housekeeping unit providing care, supervision, or treatment to reduce dependence or maintain independence of opioid drugs. A “Residential Treatment Facility” is subject to the protections of the federal Fair Housing Act Amendments of 1988, as defined in that Act and interpreted by the courts, as they apply to citizens in drug addiction treatment programs, and by any similar legislation of the State of Ohio.

Residential Treatment Facility (Small). A residential treatment facility that is designed for and occupied by five or less residents living together.

Residential Treatment Facility (Large). A residential treatment facility that is designed for and occupied by six or more residents living together.

Restaurant. An establishment with table services whose principal business is the selling of unpackaged food and beverages to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, provided that no drive-through window may be permitted.

Restaurant, Fast Food. An establishment whose principal business is the sale of prepared or rapidly prepared food, in disposable containers and without table service, directly to the customer in a ready-to-consume state.

Retail Sale. Any business selling goods, wares, or merchandise directly to the ultimate consumer for direct consumption and not for resale.

Retail Service. An establishment primarily engaged in providing individual services generally related to personal needs, such as, but not limited to, barber shops, beauty shops, nail salons, day spas, travel agencies, and photographic studios.

Right-of-way. Land dedicated to or owned by the public for use as a roadway, walk, or other way.

Roadside Stand. A temporary business use devoted strictly to the sale of seasonal agricultural and horticultural products to the general public located in a wholly or partially enclosed structure, and which shall be sold on the property where the product is grown or made.

S. _____

Sale, Building Material. The selling of materials used in the construction or renovation of a dwelling or other structure, including but not limited to lumber, sheet metal, and wallboard.

Sale, Residential Outdoor. A residential outdoor sale consists of house, apartment, garage, and yard sales and are permitted in any residential district, but only when limited to the personal possessions of the owner or occupant of the dwelling unit at which such sale is being conducted.

Sale, Seasonal. The temporary sale of seasonal goods, which may include, but is not limited to, farmer's markets, and the sale of Christmas trees, pumpkins, and similar items. This use does not include the outdoor display or sales of goods from the principal business in which the display or sales is associated with.

Satellite Dish. A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or tower. Such device shall be used only to receive radio or electromagnetic waves between terrestrial and orbital uses. Satellite dishes include, but are not limited to, television reception only satellite dish antennas and satellite microwave antennas.

Setback. The required minimum horizontal distance between the building line and the related front, side, or rear property line.

Shopping Center. A grouping of retail and service uses on a single site that is developed, owned, and managed as a unit with off-street parking as an integral part of the unit.

Sign. An outdoor advertising structure, device, or visual communication designed or intended to convey information to the public in written or pictorial form.

Sign, Aerial. Any airborne floatation device which is tethered to the ground or to a building or other structure which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered.

Sign, Area of. The entire area within a continuous perimeter enclosing the extreme limits of the sign display, including any frame or border. The area of signs composed of individual letters, numerals, symbols, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or devices with no interior angles greater than 180 degrees.

Sign, Construction. A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

Sign, Digital. A sign which displays a text message or graphic image by illuminating a matrix of light emitting diodes (LED) in a programmed pattern to illustrate text or a graphic image.

Sign, Directional. Any on-premises sign giving directions, instructions, or facility information that does not contain the name or logo of an establishment or any advertising copy.

Sign, Entranceway. A type of ground sign located at the entrance or entrances of residential, commercial, or industrial subdivisions that incorporate high quality building materials and landscaping to create a uniquely identifiable landmark for the subdivision.

Sign, Freestanding. Any permanent sign not attached to a building. This shall include signs attached to poles and signs attached directly to the ground.

Sign, Government. Signs designed for control of, or to provide information to, traffic and other regulatory functions, and signs of public utilities and/or common carriers indicating danger and/or location of facilities and/or components, and aids for service or safety which are erected by the order of a public officer in the performance of his/her public duty.

Sign, Ground Mounted. Any freestanding sign, other than a pole mounted sign, independently supported by the ground or mounted on a decorative wall or fence.

Sign, Informational. Any off-premises sign located in the public right-of-way that is intended to direct vehicular or pedestrian traffic, giving direction or instructions, which does not contain any commercial message or advertising copy.

Sign, Nameplate. A permanent sign no larger than one square foot placed on the front of a residential structure or mounted in the front lawn of a residential property. A nameplate will be included in the calculation of the maximum signage area allotted to a parcel.

Sign, Non-conforming. A sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.

Sign, Portable Sandwich Board. A sign with two display surfaces that is not permanently anchored to the ground or a structure and has a hinged or A-frame construction that allows the sign to be displayed indoors or outdoors.

Sign, Portable. A sign which is movable, and which is not permanently attached to the ground, a structure, or other signs, and is designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

Sign, Public. Any sign required or specifically authorized for a public purpose by any law, statute, or ordinance which may be of any type, number, area, height above grade, location, illumination, or animation, required by law, statute, or ordinance under which the signs are erected (see government sign).

Sign, Projecting. A sign supported by a building wall or column and extending a distance exceeding 12 inches from the wall.

Sign, Site. A sign located on any parcel for which a building permit has been issued but on which construction related to such building permit is incomplete.

Sign, Snipe. Any sign that is posted on trees, landscaping, utility poles or structures, streetlights, fences, fire hydrants, bridges, curbs, sidewalks, park benches, streets, right of ways, or other locations on public property.

Sign, Subdivision. Any ground mounted or wall sign identifying a recognized subdivision, condominium complex, or residential development.

Sign, Temporary. Any sign not constructed or intended for long-term use that is not permanently mounted.

Sign, Wall. Any sign which is located on or formed by the surface of the wall of a building. A mansard roof facade on a building shall be considered part of the wall.

Sign, Window. A sign installed inside a window and intended to be viewed from the outside.

Sign, Yard. A temporary sign, which is mounted on a stake or a frame structure) often made from wire) that includes one or more stakes.

Sign Permit. The official written approval for the creation, erection or construction of a sign issued by the Village of Newtown.

Sign, Walker. An individual carrying a portable sign intended to convey a commercial message to vehicular traffic.

Site Plan. A plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

Skilled Nursing Facility. A facility that offers short and long-term care for individuals who need rehabilitation services or who suffer from serious to persistent health issues. Certificates of need are issued by the State of Kentucky for bed units. Skilled nursing facilities do not include facilities providing surgical or emergency medical services, substance abuse programs, or mental health facilities.

Small Format Discount Store. A small scale discount retail store that sells a wide range of inexpensive or discount goods, generally located in a standalone building.

Solar Farm. A utility-scale commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or various experimental solar technologies, for the primary purpose of wholesale or retail sales of generated electricity.

Storage Yard. The keeping, in an unroofed area, of any goods, material, merchandise, vehicles, trailers, or equipment in the same place for more than 24 hours.

Story. That portion of a building, included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any basement or cellar used for residence purposes shall be deemed a full story.

Story, First. The lowest story or the ground story of any building, the floor of which is not more than 12 inches below the average contact ground level at the exterior walls of the building.

Story, Half. A partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story. Any partial story used for residence purposes shall be deemed a full story.

Story, Mezzanine. A story which covers one-third or less of the area of the story directly underneath it. A mezzanine story shall be deemed a full story if it covers more than one-third of the area of the story directly underneath the mezzanine story.

Street. A public right-of-way which provides a public means of access to abutting property for motor vehicles.

Structure. Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Structures, Temporary. A structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Structural Alteration. Any change in the structural members of a building, such as walls, columns, beams, or girders.

Swimming Pool and Hot Tub. Any structure located in-ground or above ground containing, or normally capable of containing, water to a depth at any point greater than 24 inches for the purpose of recreation, sports activity, or swimming.

T.

Tattoo Establishment. Any location where tattooing is engaged in or where the business of tattooing is conducted or any part thereof.

Tavern. An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may be available for consumption on the premises.

Tent. A temporary structure for the protection from weather, in association with and accessory to a temporary event. Tents are not to be used for overnight accommodations.

Thoroughfare Plan. The approved roadway plan adopted by the Village Council, establishing the location and official right-of-way width of principal highways and streets in the Village.

Trailer Home or Mobile Home (including Motor Home, Automobile Trailer, Trailer Coach, or House Trailer). Any vehicle or structure constructed to permit occupancy thereof as sleeping quarters, the conduct of any business, trade, or occupation, use as a selling or advertising device, or use for storage or conveyance for goods, equipment, or machinery and so designed that it is or can be mounted on wheels and used as a conveyance on highways and streets propelled or drawn by its own or other motor power.

Trailer, Educational. Any trailer, mobile unit, or van that is used exclusively for the purpose of instruction or activities related to instruction by a school of general education.

Trailer Home Park or Mobile Home Park. Any lot or part thereof, or any parcel of land which is used or offered as a location for two or more trailers used for any purpose set forth in **Trailer Home** or **Mobile Home** above.

U.

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

Used. Arranged, designed, constructed, altered, converted, rented, leased, or intended to be used.

V.

Vape, Tobacco, and CBD Establishments. Any store, stand, booth, or concession that devotes 30 percent or more of its display floor area to tobacco products, or to the display and sale of tobacco, electronic smoking devices, or drug paraphernalia to purchasers for consumption of use.

Variance. A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public health, safety, or welfare 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.

Vehicular Use Area. A paved lot utilized for the parking of motor vehicles.

Veterinary Hospital. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Village. All of the land located within the jurisdictional boundaries of the Village of Newtown, Ohio.

W.

Warehouse Facility. The storage of raw materials, parts, or finished manufactured goods before their export or distribution. The facility is staffed and there is no customer-direct pick-up or access to these facilities. Such storage shall be within a building.

Wholesale Facility. A facility for the storage and wholesale sales of merchandise and bulk goods and non-retail store sales, which are not sold directly to the consumer, including electronic shopping, mail-order houses, and other direct-selling establishments. This use classification excludes retail sale of goods at discount prices for individual consumption.

Wireless Communication Systems. See Cellular or Personal Communication.

Y.

Yard. An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward.

Yard, Front. A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot, usually the building line. The front yard shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line) to the closest point of a principal building, however, if the proposed location of the right-of-way line of such street as established on the Thoroughfare Plan or on the official map of the Village differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on the Thoroughfare Plan or official map. Corner lots shall have two front yards.

Yard, Rear. A yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line to the closest part of a principal building.

Yard, Side. A yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line to the side of a principal building, and a line parallel thereto on the lot. The least width of a side yard shall be measured from the nearest side lot line to a principal building.

Z. _____

Zoning Permit. A document issued by the Building Commissioner authorizing buildings, structures, or uses consistent with the terms of this Code and for the purpose of carrying out and enforcing its provisions.

Zoning Map. The zoning map of the Village, together with all amendments subsequently adopted.

**CHAPTER 3
DISTRICT ESTABLISHMENT AND MAP**

3.0 Division of Village into Districts

The Village is hereby divided into eight use districts as follows:

<u>Abbreviation</u>	<u>District</u>
A	Agricultural
R-SF	Residential Single Family
R-TF	Residential Two-Family
R-MF	Residential Multiple Family
P-V	Planned Village Center
G-B	General Business
ORP	Office Research Park
LIP	Light Industrial Park

3.1 Official Zoning Map

The districts established in Section 3.0 are shown on the Official Zoning Map which, together with all explanatory matter therein, is hereby adopted as part of this Zoning Code and is hereby incorporated by reference into this Zoning Code. The Official Zoning Map, properly attested, shall remain on file in the office of the Village Administrator or his/her designee.

3.2 Interpretation of District Boundaries

Except where referenced on the map to a street or alley line or other designated line by dimensions shown on the map, the district boundary lines follow lot lines or the center lines of streets or alleys as they existed at the time of adoption of this Chapter, but where a district line obviously does not coincide with the lot lines as such, or center lines of streets or alleys, or where it is not designated by dimensions, it shall be determined by the use of the engineer's scale as measured on the Official Zoning Map.

When the streets or alleys on the ground differ from the streets or alleys on the Official Zoning Map, the Board of Appeals may apply the Zoning District designations on the map to the property on the ground in such a manner as to conform to the intent and purposes of this Section in the judgment of the Board.

3.3 Lot Divided, Extension of District

Where a district boundary line established in this Section or as shown on the Zoning Map divides a lot which was in single ownership at the time of enactment of this Chapter, the use authorized thereon and the other district requirements applying to the more restricted portion of such lot under this Chapter shall be considered as extending to the entire lot.

3.4 Vacated Street or Alley

Whenever any street, alley, or other public way is vacated by official action as provided by law, the zoning district adjoining the side of such public way shall be extended automatically, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which shall thenceforth be subject to all regulations of the extended district.

3.5 Annexations

All territory which may hereafter become a part of the Village of Newtown by annexation shall automatically be classed as lying and being in the same District as it was designated by the jurisdiction which the annexed territory was under state law. If there be a similar District in existence under these regulations; insofar as the use, area and height of buildings erected thereon can fit into a similar zone, such District shall be applied. If no such use or District is available, then such portion annexed shall automatically be classified as lying in the district in the Newtown Zoning Code that is most similar in description until such classification shall have been changed by an amendment to the Zoning Regulation, as provided for by law.

3.6 Conformance with Regulations

Except as hereinafter specified:

- A. No land shall be used except for a use permitted in the Zoning District, in which it is located, or for a use conditionally permitted and subject to the issuance of a Conditional Use Permit.
- B. No building shall be erected, converted, enlarged, reconstructed, nor shall any building be moved onto a zoning lot or within the same zoning lot, unless it is a use permitted in the Zoning District in which such building is located, except as provided for elsewhere in this Code.
- C. No parcel of land or lot shall hereafter be created which does not conform to and meet the requirements of these regulations.
- D. Every building hereafter erected or structurally altered shall be located on a lot as herein defined.

CHAPTER 4 DISTRICT USES AND SUPPLEMENTAL DISTRICT REGULATIONS

4.0 District Purposes

A. Agricultural District (A)

It is the purpose of the Agricultural District to establish an area for agricultural uses and to prevent lands from indiscriminate development until such time as development pressures materialize and more appropriate rezoning can take place.

B. Residential-Single Family (R-SF)

It is the purpose of the Residential-Single Family District to establish and maintain high quality areas for single family detached dwellings on medium to small sized lots consistent with the existing Village character, while allowing for infill in certain areas.

C. Residential-Two Family (R-TF)

It is the purpose of the Residential-Two Family District to encourage high quality single- and two-family developments in the older areas of the Village and to protect these areas from encroachment by commercial and industrial uses.

D. Residential-Multi-Family (R-MF)

It is the purpose of the Residential-Multiple Family District to encourage areas of high-quality multiple family residential development.

E. Planned Village Center (P-V)

It is the purpose of the Planned Village Center District to reflect the existing mix of business and residences in the older, central portion of the Village, allowing for the continued development of the area as a mixed-use district. The use requirements are designed to promote small-scale infill development on appropriate sites and to encourage a “Walking Village Business District” in harmony with the Village of Newtown Comprehensive Plan.

F. General Business (G-B)

It is the purpose of General Business Districts to provide for a full range of business, office, professional and commercial uses and is intended for those areas which are strategically located along primary arterial thoroughfare frontage and at major intersections where they may take advantage of heavy traffic flow.

G. Light Industrial Park (LIP)

It is the purpose of the Light Industrial Park District to provide for areas along highway frontages and well-suited areas for uses which generate large amounts of truck traffic and which, for other reasons, should be separated from residential developments; and further, to encourage development of light industrial, warehousing or manufacturing uses in an attractive setting with uses and intensive activity areas within enclosed buildings.

H. Office Research Park (ORP)

It is the purpose of the Office-Research District to provide an area where certain office and professional uses can coexist with research and development type facilities and light industrial uses conducted completely within enclosed buildings arranged in a campus or park like setting with large open spaces to provide an environment for scientific and engineering personnel working on technical projects.

4.1 Use Provisions

A. Permitted Uses

A “P” in a cell indicates that a use is allowed by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this Code.

B. Permitted Uses with Standards

A “PS” in a cell indicates that a use is allowed by-right in the respective zoning district if it meets the additional standards that are identified in the reference column. Permitted uses with standards are subject to all other applicable regulations of the Code.

C. Conditional Uses

A “C” in a cell indicates that a use may be permitted if approved through the conditional use process. Conditional uses may be subject to use-specific standards that are identified in the reference column. Conditional uses are subject to all other applicable regulations of the Code, including the conditional use review standards set forth in Chapter 10.3.

D. Prohibited Uses

A blank cell indicates a use is prohibited in the respective zoning district. If a use is not listed, then it shall also be considered prohibited, unless approved by the Planning Commission through review as stated in Chapter 10.2.

4.2 Use Table

The use table lists the uses that are permitted, conditionally permitted, and permitted with standards within the designated zoning districts.

USE TABLE									
P = Permitted Use PS = Permitted Use with Standards C = Conditional Blank Box = Prohibited									
Use	A	R-SF	R-TF	R-MF	P-V	G-B	LIP	ORP	Ref.
Residential Uses									
Dwelling, Short-Term Rental	PS	PS	PS	PS	PS				Section 4.4,E
Dwelling, Single Family Detached	P	P	P	P	P			PS	
Dwelling, Single Family Attached			C	P	C	C			Section 4.4,C
Dwelling, Two-Family			P	P	P				
Dwelling, Multi-Family				P	C	C			Section 4.4,D
Dwelling, Upper Story					C				
Residential Facility (Small)	P	P	P	P	P				
Residential Facility (Large)				P	C				
Residential Treatment Facility (Small)	P	P	P	P	P				
Residential Treatment Facility (Large)				P	C				
Public/Institutional Uses									
Cemetery	C	C	C	C			C		
Community and Cultural Facility	C			C	P	P			
Educational Institution	C	P	P	P					
Essential Service and Utility	C	C	C	C	C	C			
Government Facility	C				C			P	
Parkland and Open Space	P	P	P	P	P				
Recreation, Public, Indoor and Outdoor	C	C	C	C					Section 4.3,D
Religious Facility	C	P	P	P	C				
Commercial Uses									
Adult Entertainment Establishment						C			Section 4.5,D
Agriculture	P								

USE TABLE

P = Permitted Use

PS = Permitted Use with Standards

C = Conditional

Blank Box = Prohibited

Use	A	R-SF	R-TF	R-MF	P-V	G-B	LIP	ORP	Ref.
Assisted Living and Skilled Nursing Care				C		C			Section 4.5,E
Automotive Filling Station					C	C			Section 4.5,C
Automotive Sales						C			
Automotive Service Station					C	C			Section 4.5,C
Automotive Washing						C			
Bed and Breakfast	C	C	C	C					
Brewery, Distillery, Winery, Cidery (Macro)						C	C	C	
Brewery, Distillery, Winery, Cidery (Micro)					C	P	P	P	
Building and Related Trade						P			
Business Service						C	C	C	
Cellular and Wireless Communication System	C								Section 4.5,B
Check Cashing, Short-Term Loans						C			
Club	C			C	C	C			
Conference Center								P	
Eating and Drinking Establishment					C	P		C	
Entertainment Establishment					C	P			
Financial Institution					C	P	C	P	
Funeral Home					C	P			
Garden Center, Greenhouse, and Nursery						P			
Kennel							C	C	
Motels and Hotels						P		C	
Nursery School and Day Care Center					C	P		C	
Office, Business and Professional					C	P	P	P	
Office, Medical								P	
Personal Service					C	P			
Pharmacy						P		C	

USE TABLE

P = Permitted Use

PS = Permitted Use with Standards

C = Conditional

Blank Box = Prohibited

Use	A	R-SF	R-TF	R-MF	P-V	G-B	LIP	ORP	Ref.
Printing and Publishing Establishment					C	P		C	
Recreation, Private, Indoor						P	P	C	
Recreation, Private, Outdoor		C	C			P	P	C	Section 4.3,D
Retail Sale and Service Establishment					C	P			
Small Format Discount Store						C			
Tattoo Establishment						C			
Vape, Tobacco, CBD Establishments						C			
Veterinary Hospital						PS			
Industrial Uses									
Building Material Sales and Storage Yard							P		
Distribution Facility									
Fulfillment Facility									
Landscaping and Tree Service Business								P	
Manufacturing, Artisan					C	C	P	P	
Manufacturing, Light							P	P	
Manufacturing, Heavy							C		
Medical and Dental Laboratory								P	
Medical Marijuana Cultivation, Distribution, and Processing									
Research and Development Facility							P		
Solar Farm	C						C	C	
Warehouse and Wholesale Facility							P		
Accessory Uses									
Accessory, Recreation Use	PS	C	C	C	C				
Accessory, Retail Sale	PS					PS	C		
Accessory, Use and Structure	PS	PS	PS	PS	PS	PS	PS	PS	
Accessory, Warehousing							P	C	

USE TABLE

P = Permitted Use

PS = Permitted Use with Standards

C = Conditional

Blank Box = Prohibited

Use	A	R-SF	R-TF	R-MF	P-V	G-B	LIP	ORP	Ref.
Automatic Teller Machine (ATM), Outdoor						PS			
Drive-thru/Drive-in/Pick-up-windows					C	C	C		Section 4.5,A
Fence and Hedge	PS	PS	PS	PS	PS	PS	PS	PS	Section 4.6,A
Home Occupations	C	C	C	C					Section 4.6,F
Outdoor Dining						PS			
Outdoor Bulk Storage and Display							PS		Section 4.6,C
Roadside Stand	P								
Renewable Energy	PS	PS	PS	PS	PS	PS	PS	PS	
Satellite Dish	PS	PS	PS	PS	PS	PS	PS	PS	Section 4.6,B
Signs	PS	PS	PS	PS	PS	PS	PS	PS	Chapter 9
Signs, Digital	C	C	C	C	C	C	C	C	Section 9.8,E
Swimming Pool and Hot Tubs	PS	PS	PS	PS					Section 4.6,E
Temporary Uses									
Commercial Trailer	PS	PS	PS	PS	PS	PS	PS	PS	
Construction Dumpster	PS	PS	PS	PS	PS	PS	PS	PS	
Festival and Circus	C				PS	PS	PS		
Mobile Food Vendor					PS	PS	PS	PS	Section 4.7,C
Mobile Medical Use						PS	PS	PS	
Mobile Storage Structures	PS	PS	PS	PS	PS	PS	PS	PS	Section 4.7,A
Residential Outdoor Sale	PS	PS	PS	PS					
Seasonal Sale	PS				PS	PS			
Structures, Temporary								C	
Tent	PS	PS	PS	PS	PS	PS	PS	PS	

4.3 General Supplemental Regulations

A. Reduction of Required Area or Space

Unless a variance is specifically granted by the Board of Zoning Appeals, no lot, yard, court, parking area, or other space shall be reduced in area or dimension so as to make the area or dimension less than the minimum required by this Code. No part of a yard, court, parking area, or other space provided about or for any building or structure for the purpose of complying with the provisions of this Chapter, shall be included as part of the yard, court, parking area, or other space required under this Chapter for another building or structure. Furthermore, any part of a yard, court, parking area or other space provided which is already less than the required minimum shall not be reduced further.

B. Clear Sight Distance at Street and Access Drive Intersections and Corner Lots

To ensure that landscape materials do not constitute a driving hazard, a "clear sight triangle" will be observed at all street and access drive intersections. A clear sight triangle is the triangular area formed by a diagonal line connecting two points located on intersecting lines of a right-of-way, easement of access, or pavement edge of an access drive, each point being 20 feet from the intersecting lines. See *Figure 4.4,A*.

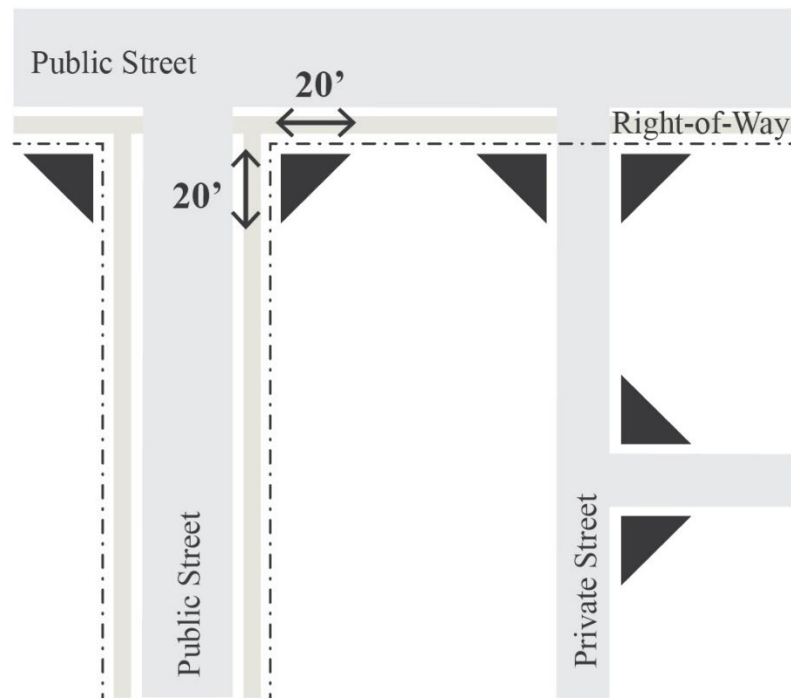


Figure 4.4,A - Sight Distance Diagram

1. Design: The entire area of the clear sight triangle should be designed as illustrated in Figure 4.4A to provide the driver of the vehicle entering the intersection with an unobstructed view to all points nine feet above the roadway along the centerline. The recommended distance depends upon the design speed of the higher-order street and therefore is greater for arterial streets than for collectors.
2. Restrictions Within Clear Sight Triangles: No landscape material with a mature height greater than 12 inches shall be permitted within the sight triangle, except for trees which conform to the following standards. Trees shall be permitted within the sight triangles as long as, except during early growth stages, only the tree trunk (no limbs, leaves, etc.) is visible between the ground and nine feet above the ground, or otherwise does not present a traffic visibility hazard. Restrictions shall not apply to fire hydrants, public utility poles, street markers, governmental signs, traffic control devices, and existing natural grades which, by reason of natural topography, rise 12 or more inches above the level of the center of the adjacent intersection.

C. Performance Standards to Regulate Potential Hazards and Nuisances

The following minimum standards shall apply to all uses in the Light Industrial Park District, General-Business District, Office Research Park District and Planned Village Center District:

1. Fire and Explosion Hazards: All activities including storage, involving flammable or explosive materials, shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited.
2. Air Pollution: No emission of air pollutants shall be permitted which violate the Clean Air Act Amendment, as amended from time to time.
3. Glare, Heat and Exterior Light: Any operation producing intense light or heat, such as high temperature processes like combustion, welding or otherwise, shall be performed within an enclosed building and shall not be visible beyond any lot line bounding the property whereon the use is conducted. No exterior lighting shall be positioned so as to extend light or glare onto adjacent properties or rights-of-way.
4. Dust and Erosion: Dust or silt shall be minimized through landscaping, paving or other adequate means in a manner as to prevent their transfer by wind or water to points off of the lot in objectionable quantities.
5. Liquid or Solid Wastes: No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment shall be permitted.

6. Vibrations and Noise: No uses shall be located, and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernable without instruments at or beyond the property lines of the subject premises
7. Odors: No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor causing substances in such concentrations as to be readily perceptible at any point or beyond the lot line of the property on which the use is located.

D. Regulations for Outdoor Recreation Areas

Public or private outdoor recreation areas and facilities such as swimming pools, recreation clubs, golf courses and country clubs are conditionally permitted uses within several Districts and shall meet the following additional requirements:

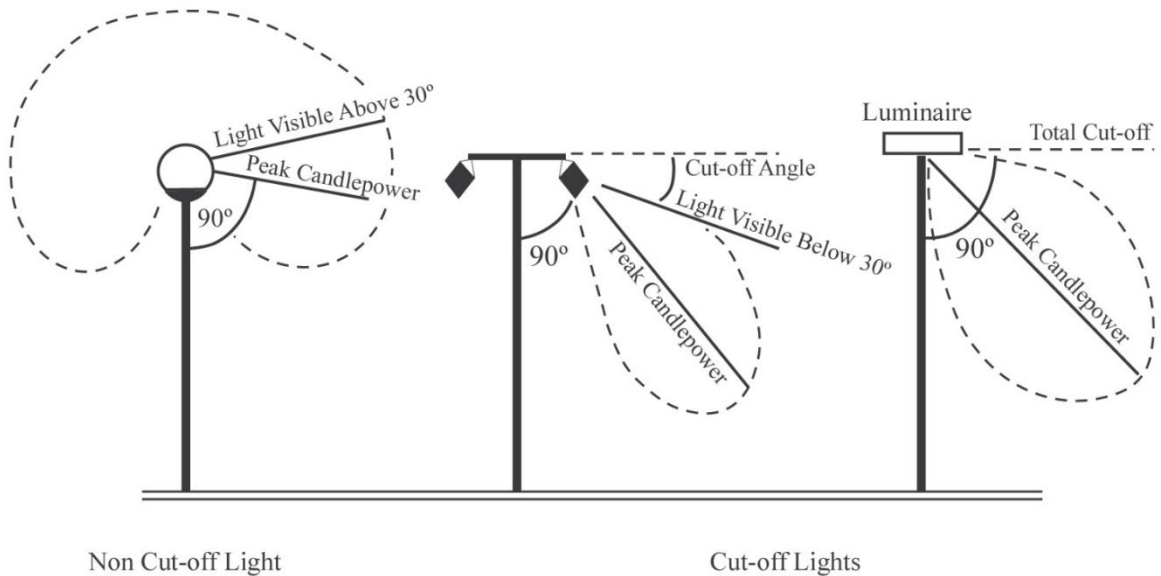
1. The site shall contain not less than one acre.
2. Front yards shall be 50 feet; except when fronting on a state highway, then front yards shall be 100 feet. Side yards shall be 40 feet, and rear yards shall be 50 feet.
3. The site shall have adequate access onto a hard surfaced state highway or Village thoroughfare that is regularly maintained and adequate to handle the additional traffic generated by the use.
4. Parking areas shall be a minimum distance of 50 feet from residential uses.

E. Regulations for Outdoor Lighting

The following restrictions shall apply to any outdoor lighting located in any district on parcels, including parking areas and areas where on-building lighting or other security lighting is utilized.

1. All outdoor lighting shall be designed, located, and mounted at heights no greater than 16 feet above grade for non-cutoff lights and 24 feet above grade for cutoff lights. A greater height may be authorized in any district by a Variance approved by the Board of Zoning Appeals. Cutoff and non-cutoff lights are illustrated below.
2. All outdoor lighting shall be designed and located with a maximum illumination of 0.5 foot-candles at the property line.
3. All outdoor lighting for non-residential and residential uses shall be located, screened, or shielded so that adjacent lots located in residential districts are not directly illuminated.
4. No outdoor lighting shall be of such an intensity or color distortion as to cause glare or to impair the vision of drivers or pedestrians.

5. The following factors shall be considered in the evaluation of lighting plans: pole height, type of luminaries, average maintained site coverage, maximum-minimum uniformity, average-minimum uniformity, and intensity at the property line.
6. Outdoor lighting need not comply with the yard requirements of this Resolution, except that no such light shall obstruct sight triangles as defined in Section 4.4.



F. Regulations for Parking of Recreational Vehicles

1. The parking of any recreational vehicle in any residential district shall be prohibited, except that one recreational vehicle may be parked or stored in a garage or other accessory building or on a paved surface in a rear yard or a side yard in any residential district. No occupancy for human habitation shall be maintained or business conducted therein while such recreational vehicle is so parked or stored. No recreation vehicles may be used for the purpose of storage of household items. The wheels or any similar transporting devices of any such trailer permitted within a residential district shall not be removed, nor shall any trailer be temporarily or permanently affixed to the ground or attached to something having a temporary or permanent location on the ground.
 - a. For the purposes of this Section, recreational vehicle shall be defined as any of the following: any privately owned boat, boat trailer, folding tent trailer, personal watercraft, motorized home, pick-up camper, snowmobile, travel trailer, a three or four wheel all-terrain vehicle or other similar equipment

2. Temporary Parking Permitted. The temporary parking of one additional recreational vehicle in any residential district is permitted for a period not to exceed 72 continuous hours within any single calendar month.
3. Non-Residential Zoning Districts. The parking of a recreational vehicle in any non-residential zoning district is prohibited unless the recreational vehicle is an integral part of a permitted or conditionally permitted land use within the district.

G. Medical Marijuana Prohibitions

Medical marijuana cultivation, processing, and retail dispensaries, as regulated by State of Ohio law, is prohibited within all Zoning Districts.

4.4 Agricultural and Residential Supplemental Regulations

A. Dwelling on Any Lot of Record

In any district where dwellings are permitted, a single family detached dwelling may be erected on any lot of official record at the effective date of this Chapter, irrespective of its area or widths, provided the applicable yard and other open space requirements satisfy the following requirements. On lots of record which do not meet the minimum yard requirements for the corresponding district as of the effective date of this Code, the minimum yard setback shall be determined by the proportional application of the requirements specified in that corresponding district. However, those modified setbacks shall not be greater than 50 percent of the minimum setback required in that district except as otherwise provided by this Code.

B. Residential Conversions to Accommodate a Greater Number of Dwelling Units

This Section shall enable the owner of a dwelling unit to convert the structure to accommodate additional dwelling units, provided the following criteria are met:

1. When completed, the conversion shall conform to all the requirements for new construction of the Zoning District in which it is located, including use, density, lot size, yard requirements, and all other restrictions mandated by this Zoning Code.
2. Additional off-street parking shall be provided in accordance with the requirements of Chapter 8, Off-Street Parking and Loading.
3. In no case shall a conversion result in the creation of a new dwelling unit which has a floor area of less than 400 square feet.
4. Each proposed dwelling unit shall be served by municipal water and sewer facilities.

C. Regulations for Single Family Attached Dwellings

In the case of a total landholding proposed for an attached single-family development of one acre or more, no portion or phase of the development shall exceed a maximum gross density of eight dwelling units per acre, unless an exception is granted under the Planned Unit Development Provisions in the Planned Unit Development Chapter.

D. Regulations for Multiple Family Dwellings

Multiple family dwellings shall conform to the following requirements:

1. The following minimum zoning lot size and density requirements shall be observed unless an exception is granted as authorized under the Planned Unit Development provisions of these regulations, as provided for in the Planned Unit Development Chapter:
 - a. A total minimum lot area of 7,500 square feet per unit shall be required for the first three dwelling units.
 - b. An additional 6,000 square feet shall be required for the fourth unit.
 - c. An additional 6,000 square feet shall be required for the fifth unit.
 - d. An additional 8,000 square feet shall be required for each unit over the fifth unit.
2. In the case of a total landholding proposed for multiple family development of one acre or more, no portion or phase of the development shall exceed a maximum gross density of eight dwelling units per acre, unless an exception is granted under the Planned Unit Development Provisions in the Planned Unit Development Chapter.
3. The applicant for a conditional use permit for a multiple family use shall furnish assurances from the developer that the following criteria have been satisfied:
 - a. The disposal of sewage shall meet with the approval of all applicable health authorities.
 - b. Storm water run-off shall be properly channeled so as to eliminate the possibility of flooding, either on or off the property.
 - c. The street(s) providing access to the site shall be adequate to carry the additional traffic generated by the development.

E. Regulations for Short-Term Rentals

Short-term rentals shall be subject to the following regulations:

1. For short-term rentals of individual rooms, the principal dwelling shall remain occupied by the owner of the property. This does not apply to short-term rentals that are for the entire structure.
2. Short-term rentals shall be limited to two renters per designated sleeping area, but in no case shall exceed five renters at any one time.
3. No outdoor advertising signs related to the short-term rental shall be allowed on site.
4. Short-term rentals shall provide a minimum of one parking spaces dedicated to the short-term rental.
5. Short-term rentals shall not be operated outdoors, in a tent, in an accessory structure, or in a recreational vehicle. All short-term rental services shall be provided within the principal structure.

F. Regulations for the Keeping of Chickens and Rabbits in Residential Areas

The keeping of backyard chickens and rabbits shall be permitted on all single family residential properties in the Village of Newtown, subject to the following:

1. No more than a collective total of 10 chickens or six rabbits are permitted per property.
2. All chicken coops and rabbit hutches must be constructed no closer than 15 feet to the side and rear property lines. No chicken coop or rabbit hutch shall exceed 120 square feet in size or 10 feet in height.
3. The animal enclosure may not be visible from the public street and appropriately screened from abutting properties with landscaping, a fence, or wall constructed and maintained in accordance with the Village of Newtown Zoning Code.
4. Chickens shall be confined to a chicken coop, chicken run, or otherwise contained on the owner's property at all times.
5. No person shall keep and raise chickens in such a manner as to create a nuisance due to excessive noise, improper care, maintenance, or sanitation conditions.

4.5 Commercial Supplemental Regulations

A. Regulations for Drive-In, Drive-Through, or Carry-Out Eating and Drinking Establishments

In addition to the other relevant District regulations, drive-in, drive-through, or carry-out eating and drinking establishments shall be reviewed by the Planning Commission during site plan review as required by Section 10.6 and shall be further regulated as follows:

1. The location shall be located on or near an arterial road; said road shall be adequate to carry the additional traffic generated by the establishment.
2. A minimum of five stacking spaces per drive-thru lane shall be required.
3. Exterior lighting, including illuminated signage, shall be so shaded, shielded or directed that the light intensity or brightness shall not extend beyond the subject property line to be determined by the submission of a photometric lighting plan.
4. A solid fence or wall four to six feet in height shall be constructed where any off-street parking area is located, adjacent to a dwelling unit or any residentially zoned parcel of land. An evergreen hedge maintained in good condition may be substituted for the required fence or wall, provided however, that the evergreen hedge provides an opaque screen to prevent the glare of headlights onto adjoining properties and provided that the Planning Commission approves such.

B. Regulations for Cellular or Wireless Communication Systems

Cellular or wireless communication systems shall be regulated as follows:

1. In recognition of the quasi-public nature of cellular and/or wireless communication systems, it is the purpose of these regulations as set out here in this Section, and known as “Cellular or Wireless Communications Systems” to:
 - a. Accommodate the need for cellular or wireless communication towers while regulating their location and number in the Village;
 - b. Minimize adverse visual effects of communication towers and support structures through proper siting, design, and screening;
 - c. Avoid potential damage to adjacent properties from communication towers and support structure failure; and
 - d. Encourage the joint use of any new and existing communication towers and support structures to reduce the number of such structures needed in the future.

2. The following use regulations shall apply to cellular or wireless communication antennas and towers:
 - a. A cellular or wireless communications antenna that is mounted to an existing communications tower (whether said tower is for cellular purposes or not), smokestack, water tower or other tall structure, shall be permitted as of right in districts where permitted as specified in this Code. Cellular or wireless communications antenna may also be located on the top of buildings which are 50 feet in height or greater. Any cellular or wireless communications antenna that is mounted to an existing structure as indicated above shall be painted a color which matches, or is compatible with, the structure on which it is located.
 - b. A cellular or wireless communications antenna that is not mounted on an existing structure or is more than 15 feet higher than the structure on which it is mounted, is permitted in all zoning districts, with the exception of any single household or multi-household zoning district, as a conditional use.
 - c. All other uses accessory to the cellular or wireless communications antenna and towers (except a building to house mechanical equipment) including, but not limited to business offices, maintenance depots, and materials and vehicle storage, are prohibited from the site unless otherwise permitted in the zoning district in which the cellular or wireless communications antenna and/or tower is located.
 - d. Cellular or wireless communications sites shall not be located in any single household or multi-household residential zoning district, nor shall they be located any closer to any residential zoning district as follows:
 1. Cellular or wireless communication towers less than 100 feet in height shall be located no closer than 400 feet to any residential zoning district.
 2. Cellular or wireless communication towers less than 150 feet in height shall be located no closer than 650 feet to any residential zoning district.
 3. Cellular or wireless communication towers 150 feet in height and greater shall be located no closer than 850 feet to any residential zoning district.
3. The following standards shall apply to all conditionally permitted cellular or wireless communications antennas and towers:
 - a. The cellular or wireless communications company shall be required to demonstrate, using the latest technological evidence, that the antenna or tower shall be placed where it is proposed in order to satisfy its necessary function in the company's grid system.

- b. If the cellular or wireless communications company proposes to build a cellular or wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of nearby tall structures within a one mile radius of the site proposed, asked for permission to install the cellular or wireless communications antenna on those structures, and the reason for denial. “Tall structures” shall include, but not be limited to, smokestacks, water towers, church steeples, buildings over 50 feet in height, antenna support structures of other cellular or wireless communication companies, other communication towers and roadway lighting poles. The Village may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good faith effort to mount the antenna on existing structures.
4. Standards of Approval of All Cellular or Wireless Communications Antennas and Towers
- a. Antenna/Tower Height: The applicant shall demonstrate that the antenna/tower is the minimum height required to function satisfactorily. No antenna that is taller than the minimum height shall be approved, unless it is demonstrated that the additional height will allow the structure to support future co-location.
 - b. Setbacks from the Base of the Tower: If a new cellular or wireless communications tower is to be constructed, the minimum distance between the base of the tower or any guy wire anchors, and the property line shall be the greater of the following:
 - 1. 40 percent of the tower height;
 - 2. The minimum setback in the underlying zoning district; or
 - 3. 50 feet
 - c. Cellular or Wireless Communications Tower Safety: The applicant shall demonstrate that the proposed cellular or wireless communications tower and its antenna are safe and that the surrounding properties will not be negatively affected by tower failure, falling ice or other debris. Furthermore, all cellular or wireless communications towers shall be fitted with anti-climbing devices as approved by the manufactures.
 - d. A fence shall be required around the cellular or wireless communications tower and its support structure(s) unless the antenna is mounted on an existing structure. The fence shall be a minimum of eight feet in height and shall be erected to prevent access to non-authorized personnel.

- e. Landscaping shall be required to screen as much of the support structures as possible, the fence surrounding the cellular or wireless communications tower, support structure(s) and any other ground level features and, in general, soften the appearance of the cellular communications site. The Village may permit any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure, and other equipment is housed inside of an existing structure, landscaping shall not be required. The operator of the facility shall be required to maintain the landscaping and to replace dead or severely damaged plants. Any freestanding cellular or wireless communications tower shall incorporate landscaping which includes trees, shrubs and other landscaping vegetation that is subject to review and is acceptable to the Planning Commission. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
- f. In order to reduce the number of antenna support structures needed in the Village in the future, the proposed cellular or wireless communications tower shall be required to accommodate other users, including other cellular communications companies, and local police, fire, and ambulance departments.
- g. The cellular or wireless communications company shall demonstrate to the Village that it is licensed by the Federal Communications Commission (FCC).
- h. Required Parking: If the cellular or wireless communications site is fully automated (i.e., not requiring employees for daily operations), adequate parking shall be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in the Zoning Code.
- i. Cellular or wireless communications towers under 200 feet in height shall be painted silver or have a galvanized finish retained in order to reduce visual impact. Cellular or wireless communications towers shall meet all Federal Aviation Administration (FAA) regulations. No cellular or wireless communications towers may be artificially lighted except when required by the FAA. Furthermore, no cellular communication tower or antenna shall contain any signage containing a commercial message.
- j. A full site plan shall be required for all proposed cellular or wireless communications sites, at a scale of one inch to 100 feet (1"=100'), indicating, as a minimum, the following. This information shall be submitted in addition to other application requirements specified in this Code.

1. The total area of the site.
2. The existing zoning of the property in question and of all adjacent properties.
3. All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated, or abandoned.
4. Existing topography with a maximum of five foot contours intervals.
5. The proposed finished grade of the development shown by contours not exceeding five foot intervals.
6. The location of all existing buildings and structures and the proposed location of the cellular or wireless communications tower and all cellular or wireless communications support structures including dimensions, heights, and where applicable, the gross floor area of the buildings.
7. The location and dimensions of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, grades, surfacing materials, drainage plans and illumination of the facility.
8. All existing and proposed sidewalks and open areas on the site.
9. The location of all proposed fences, screening, and walls.
10. The location of all existing and proposed streets.
11. All existing and proposed utilities including types and grades.
12. The schedule of any phasing of the project.
13. A written statement by the cellular or wireless communications company as to the visual and aesthetic impacts of the proposed cellular or wireless communications tower on all adjacent residential zoning districts.
14. Any other information as may be required by the Planning Commission to determine the conformance with this Zoning Code.

- k. Upon submission of a complete application for site plan review to the Building Commissioner, the application shall be transmitted to the Planning Commission where they shall review the site plan to determine if it meets the purpose and requirements as established in this Section, of the zoning district where the proposed cellular or wireless communications site is located and of any other applicable Section of this Zoning Code. No public notice or public hearing shall be required in conjunction with the review, approval, approval with modifications or disapproval of the site plan.

The Planning Commission shall act upon all site plans within 35 days after the receipt of the complete application from the Building Commissioner. The Planning Commission may approve, disapprove, or approve with modifications the site plan as submitted. Within the said 35 day period, a majority of the members of the Planning Commission present at a meeting thereof may vote to extend the said period of time, not to exceed an additional 60 days.

5. Maintenance: Any owner of property used as a cellular or wireless communications site shall maintain such property, structures, and landscaping in good condition and free from trash, outdoor storage, weeds, and other debris. Any cellular or wireless communications tower that has discontinued its service for a period of 12 continuous months or more shall be removed, along with all accessory structures related thereto. Discontinued shall mean that the structure has not been properly maintained, has been abandoned, become obsolete, unused or has ceased the daily activities or operations which had occurred.

C. Regulations for Automotive Service Stations and Automotive Filling Stations

The following requirements shall apply to automotive service stations and automotive filling stations (which lack automotive service facilities) in the Village and shall adhere to the following specifications:

1. There shall be a minimum of two separate driveways providing ingress and egress from the property, located not closer than 50 feet from one another, 25 from any adjacent residentially zoned district, or a minimum of 75 feet from a street intersection.
2. In the case of an automotive service station in the P-V District, all hydraulic lifts, oil pits and all lubricants, greasing, automobile washing and repair equipment, shall be conducted entirely within an enclosed building.
3. The entire lot area, exclusive of the area covered by the building, shall be paved and/or landscaped. A minimum four inch high curb shall separate all paved areas from all landscaped areas.

4. In the case of an automotive service station or automotive filling station in the P-V District, the light from exterior lighting shall be so shaded, shielded or directed that the light intensity or brightness shall not be objectionable to any surrounding residential area.
5. A solid fence, wall, or evergreen hedge, four to six feet in height shall be constructed or planted and maintained in good condition wherever such use abuts a residentially zoned district.
6. Motor vehicle fuel pumps, compressed air connections and similar equipment shall be erected no closer than 15 feet to any right-of-way line.
7. Canopies erected on an automotive filling station site shall be erected no closer than 15 feet to any right-of-way line.
8. Other uses permitted in a district in which automotive filling stations are permitted may be combined on the same premises with automotive filling station uses provided that, before the commencement of such combined uses, a site plan shall be submitted to the Planning Commission for its review and approval for the combined uses. In determining the approval, approval with modifications or disapproval of such site plan, the Planning Commission shall consider the following factors, and its approval or disapproval shall be based on the following factors, in addition to the site plan review factors per Section 10.6:
 - a. Access, ingress, egress, and traffic circulation; and
 - b. Adequate and safe separation of uses.
9. No vehicle not owned by an employee or owner of such facility shall be permitted to stand out of doors on such premises for more than seven days.
10. The following shall regulate the abandonment of automotive service stations:
 - a. If any automobile filling station is abandoned for a period at least six consecutive months in any 24 month period, such station shall be presumed to be a nuisance affecting or endangering surrounding property values and to be detrimental to the public health, safety, convenience, comfort, property, or general welfare of the community and shall be abated.
 - b. Such abandoned condition shall be abated within 60 days either by placing the station in operation in accordance with this section and other applicable laws and regulations of the Village and State.
 - c. Whenever the Building Commissioner shall find any automotive service station or automotive filling station to be abandoned within the meaning of this Section, the Commissioner shall give notice by certified mail addressed to the owner of record of the premises at the last known address or the address to which tax bills are sent, or by a combination of the foregoing methods.

- d. On the failure, neglect, or refusal of any owner to comply with the notice to abate such nuisance, the Building Commissioner shall take such action as may be necessary to abate such nuisance.
- e. Inoperative stations which do not come within the definition of an abandoned station shall be maintained in accordance with the provisions of this section and other applicable laws and regulations, and the owner shall maintain the premises, mowing grass and removing all weeds and rubbish. The parking of motor vehicles on the premises shall be strictly prohibited.

D. Regulations for Adult Entertainment Establishments

An Adult Entertainment Facility is a conditional use within the G-B District. A conditional use for such facilities shall not be approved unless the following minimum conditions shall be complied with:

- 1. No Adult Entertainment Facility shall be established within 500 feet of any Residential (R) District; or any public, private, governmental, or commercial library, school, teaching facility, park, recreational facility, religious place of worship, child day care facility, day care facility, playground, or swimming pool; or any other Adult Entertainment Facility.
- 2. No advertisements, displays or other promotional materials shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semi-public areas.
- 3. All building openings, entries, windows, etc. for Adult Entertainment Facilities shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public areas, sidewalk, or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from any public or semi-public areas.
- 4. No screens, loudspeakers or sound equipment shall be used for motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from public or semi-public areas.
- 5. The interior of any adult bookstore shall be lighted and constructed in such a manner that every portion thereof (except restroom facilities) is readily visible to the clerk or supervisory personnel from the facilities' counter or other regular workstation.

E. Regulations for Assisted Living and Skilled Nursing Facilities.

Assisted Living and Skilled Nursing Facilities shall require conditional use approval by the Planning Commission and shall conform to the following requirements:

1. The minimum lot size shall be two acres.
2. In determining the “density” for such a facility, the Planning Commission should consider the nature of the use as a care giving facility, which does not the same as a multiple family dwelling unit. The number of units for each facility should be evaluated by the Planning Commission on a site specific basis, according to the operational elements of the facility and the site design characteristics.
3. The applicant for a conditional use permit for a convalescent care facility, nursing home, or assisted living facility shall furnish assurances from the developer that the following criteria have been satisfied:
 - a. The disposal of sewage shall meet with the approval of all applicable health authorities.
 - b. Storm water run-off shall be properly channeled so as to eliminate the possibility of flooding, either on or off the property.
 - c. The street(s) providing access to the site shall be adequate to carry the additional traffic generated by the development

4.6 Accessory Supplemental Regulations

A. Regulations for Fences and Hedges

Fences and hedges are permitted in all districts, subject to the following conditions:

1. A fence may be located on the corner of the lot in the front yard of any property if it is primarily of a decorative nature, rather than an enclosing nature and meets the following conditions
 - a. Maximum height of four feet.
 - b. Permitted fencing materials include picket (wood or simulated wood), wood split rail, and wrought iron (metal or simulated metal). Permitted piers include natural stone or brick.
 - c. Length may not exceed 25 percent of the total perimeter of the front yard beyond the front building line.
 - d. The face of the fence shall be at least 75 percent open when viewed from a position perpendicular to the fence.
 - e. The requirements of this section shall not prevent the location of not more than six masonry (natural stone or brick) piers, per residential use, with size not to exceed 1’4” x 1’4”x 4’ high.

- f. No fence shall extend further than 15 feet from the corner of the lot.
 - g. Hedges may be permitted in the required front yard provided the hedge height does not exceed three feet.
 - h. If no structure exists on said residential property, no fence, wall, or hedge may project past the front building line of the average of the adjacent properties or the minimum front yard setback, whichever is greater.
 - i. Any fence in which the supporting structure for the fence, including but not limited to, the footers, posts, beams, braces, cross braces, rails, or any part thereof, are visible only on one side of the fence, shall be constructed so that the supporting structure shall not be visible from the properties which are adjacent to the property on which the fence is being constructed.
 - j. Nothing in this section shall prevent the construction of screening or buffering as required by Sections 7.5 and 8.1.
2. Fences shall not exceed six feet in height in the side and rear yard, except as permitted in (1) above. Fences shall not exceed eight feet in height in the ORP or LIP Districts. Such fences or hedges shall not be permitted within the required front yard. Permitted fences are not subject to the setback requirements of the district in which they are located.
 3. Fences shall not contain an electric charge or barbed or razor wire.
 4. No fence or hedge shall violate the sight distance requirements found in Section 4.4 of this Zoning Code.
 5. The Building Commissioner may require that a property survey be prepared and submitted when the location of a proposed fence is such that the property lines or setbacks are in question

B. Regulations for Satellite Dishes

When permitted as an accessory use, satellite dishes are subject to the following conditions. These regulations do not apply to over-the-air reception devices (as defined by the Federal Telecommunications Act of 1996) that are less than 39.37 inches in diameter, which are exempt from the regulations contained in this Zoning Code.

1. Satellite dishes shall be set back a minimum three feet from all property lines. Satellite dishes shall be prohibited in the required front yards and shall be conditionally allowed in the required side yards of the property on which they are located.

2. The maximum height of any ground-mounted satellite dish shall not exceed 15 feet above the finished grade and its surface area shall not exceed three square feet or the industry minimum. The maximum height of any roof-mounted satellite dish shall not exceed the roof height it is mounted on by more than four feet and its diameter shall not exceed three feet.
3. The satellite dish apparatus shall bear no advertising, lettering, picture, or visual image except for the manufacturer's standard identification.
4. The satellite dish apparatus where mounted to the ground shall be screened with shrubbery or trees to provide a visible barrier to adjacent properties. The satellite dish apparatus, landscaping and shrubbery shall be properly maintained to prevent both unsightly and unsafe conditions.

C. Regulations for Outdoor Bulk Storage or Display

The outdoor storage or display of bulk goods including seasonal items such as firewood and mulch shall be controlled by the following regulations:

1. The outdoor storage or display of merchandise, inventory or materials shall not interfere with parking or the safe and unobstructed use of vehicular or pedestrian access ways or walkways. Furthermore, no outdoor storage or display area may occupy any required parking space.
2. The outdoor storage or display of merchandise, inventory or materials shall not be located in any required yard area within the lot.
3. The outdoor storage or display of merchandise, inventory or materials shall not include the use of banners, pennants, or strings of pennants.
4. Outdoor storage areas shall be required to be fully screened with an opaque fence or wall not to exceed eight feet in height.

D. Regulations for Dumpster and Trash Handling Areas for Non-Single Family Districts

Dumpsters, trash handling areas, and related screening shall be located in the rear yard and in compliance with the same minimum setbacks as a main building as determined by the zoning district in which such structure is constructed.

Any such accessory use or structure shall be screened on three sides by a fence or wall from the view from public streets and any abutting properties or districts. Any fence or wall required under this Section shall have a height no greater than eight feet and no less than the height of the dumpster. Any wall shall be constructed in a durable fashion of brick, stone, or other masonry materials with no greater than 25 percent of the wall surface left open. Any fence shall be constructed in a durable fashion of wood posts and or planks with a minimum diameter or width of three inches and with a solid surface.

E. Regulations for Swimming Pools and Hot Tubs

1. The wall of an in-ground swimming pool or hot tub shall not be within six feet of a rear or side property line or within 10 feet of any street. All swimming pools and hot tubs shall be placed in the rear yard.
2. Above ground swimming pools shall be placed in an area which is structurally acceptable, provided no part of the pool, pool enclosure or deck exceeds six feet in height above grade.
3. Any pool 24 inches or more in depth shall have an enclosure surrounding the pool area. The enclosure shall extend not less than four feet above the ground. All gates shall be self-closing and self-latching with the latches placed at least four feet above the ground. In the case of four feet or taller above ground pools, required fencing may be substituted for a lockable up-position ladder.

F. Regulations for Home Occupations

Customary home occupations may be permitted by conditional use permit from the Planning Commission. Home occupations shall be subject to the following conditions in addition to use regulations in various districts:

1. No person other than members of the family residing on the premises shall be engaged in such home occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
3. The external appearance of the structure in which the use is conducted shall not be altered. Furthermore, no external alteration, construction, or reconstruction of premises to accommodate the use shall be permitted.
4. One non-illuminated sign of not more than one square foot in area, attached flat against the building, shall be permitted.
5. The home occupation may increase parking and traffic flow by no more than one vehicle at a time.
6. There shall be no outside storage of any kind related to the home occupational use and only commodities made on the premises may be sold on the premises. No display of the products shall be visible from the street.
7. No expansion of existing off-street parking shall be permitted. Furthermore, no additional parking burden, due to the home occupational use, shall be created.

8. No equipment, process, materials, or chemicals shall be used which create offensive noises, vibration, smoke, dust, odor, heat, glare, x-rays, radiation, or electrical disturbances detectable to normal senses off the premises. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers, or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
9. The neighborhood shall not be adversely affected by said home occupation.

4.7 Temporary Supplemental Regulations

A. Regulations for Mobile Storage Structures

1. A portable on-demand storage structure may be utilized as a temporary structure within the Village when in compliance with the standards of this subsection upon the issuance of a Temporary Structure Permit from the Village Zoning Inspector. Any use of such structures within the Village not in compliance with this subsection shall be unlawful.
2. The term "portable on-demand storage structures" (POD) shall be defined to be: any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements.
3. POD Standards:
 - a. A POD storage structure may be located as a temporary structure on property within the Village for a period not exceeding 30 days in duration from time of delivery to time of removal. A POD structure shall be located on a paved or hard surfaced area and not located in the grass area in any yard within the Village.
 - b. Permit Required. Permits for such temporary uses and structures may be issued by the Zoning Inspector after submission of a completed Temporary Storage Structure Permit Application and payment of the permit application fee. An approved permit is valid for the specified 30-day timeframe only. Such POD structure may not be located on a specific property more than three times in any given calendar year period. Applicants seeking to extend the time frame consistent with the provisions in this subsection shall complete a new application and submit a new permit application fee payment for each time

period sought. No POD may be stored for more than a continuous 90-day period.

- c. No more than one POD storage structure may be located on a specific piece of property within the Village at one time.
 - d. Such structure may not exceed eight feet six inches in height, 10 feet in width or 20 feet in length.
 - e. All such temporary structures shall comply with the appropriate building code provisions and such other requirements as are imposed by the Village or the Chief Building Official to ensure the safety of the public.
4. It shall be the obligation of the owner of the property on which the POD is located or the user of such temporary structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary structure. In the event of high winds or other weather conditions in which such structure may become a physical danger to persons or property, the appropriate law enforcement officers may require the immediate removal of such temporary structure.
 5. Any portable on-demand storage structure which is not removed at the end of the time for which it may lawfully remain in place, or immediately upon the direction of a law enforcement officer for removal of such temporary structure for safety reasons, may be removed by the Village immediately, without notice, and the cost of such removal, together with the cost of administration of its removal, may be assessed against the property on which the temporary structure was located and may be filed as a lien against such property by the Village. Such lien shall be superior in priority to all other liens or encumbrances upon the property, including the lien of a mortgage, and shall be equal in priority to the lien of ad valorem taxes.

B. Regulations for Temporary Handicapped Accessible Ramps

A temporary handicapped accessible ramp may be installed in any yard without Board of Zoning Appeals approval provided that the Building Permit application includes that such ramp is necessary for access to a dwelling, or when such access is required to a building in accordance with the Americans with Disabilities Act.

The accessible ramp shall be installed in the side yard when possible. The owner shall remove the accessible ramp from a dwelling when the medical necessity for the ramp access no longer exists.

C. Regulations for Mobile Food Vendors

1. Each operator of a mobile operation shall obtain a Conditional Use approval and Certificate of Occupancy, renewable on an annual basis. The application for Conditional Use approval shall include at a minimum the following information:

- a. Narrative from the applicant describing the operation and its hours of operation.
 - b. For mobile food vendor service operators, a copy of the required State of Ohio and Hamilton County license for mobile food vendor service establishments.
2. Zoning District Restrictions. Mobile food vendor operations are permissible as a Conditional Use in all districts except agricultural and residential districts.
 3. Site Restrictions.
 - a. Shall not be located:
 1. On the public right-of-way
 2. In any driveway aisles, no parking zones, loading areas, or parking lanes, nor may mobile operations impede the on-site circulation of motor vehicles
 - b. Shall be located:
 1. On improved property
 4. Hours of Operation

Mobile food vendor operations are permissible between the hours of 7:00 A.M. to 10:00 P.M. on weekdays and on weekends.

5. Sale of Alcoholic Beverages

The sale or serving of alcoholic beverages shall be in accordance with State of Ohio Division of Liquor Control regulations.

6. Music or Sound

The use of any sound amplification is prohibited regardless of the intended purpose.

7. Signs

An A-frame menu board is permitted to be placed by the mobile food vendor operation and within the vending area. An operation is allowed to display this sign only during hours of operation, otherwise the board shall be removed.

8. Electric Service Connections

Electric service connection to an on-site approved outlet is permitted provided that no wiring or cables are run beyond the vending area or pose any danger to the patrons. The vending area includes the space taken up by: a portable stand, vehicle, or trailer; signs; equipment; products, canopies, or awnings.

9. Site Restrictions

Square footage for one mobile food vendor per site shall be a minimum of 10,000 square feet of net lot area.

4.8 Non-Conforming Uses

A. Non-Conforming Dwelling Units

Any legally permitted dwelling unit existing within a non-residential district on the effective date of the adoption of this Code may continue as a dwelling use provided that the dwelling conforms to the regulations set forth in Section 4.3, Non-Conforming Uses.

B. Existing Non-Conforming Uses Continuation

Except as otherwise specified in these regulations, any use, lot, building or structure that exists as of the enactment date of these regulations or on the date of an amendment to the zoning map may be continued even though such use, lot, building, or structure may not conform to the provisions of the Zoning District in which it is located. The provisions of this chapter shall apply.

Nothing contained in these regulations shall require any change in the plans, construction, size, or designated use of a building, for which a valid permit has been issued or lawful approval given before the effective date of these regulations; provided, however, that construction under such permit or approval shall have been started within six months and the ground floor framework including structural parts of the second floor shall have been completed within one year and the entire building completed within two years after the effective date of these regulations.

C. Discontinuance of Use

In the event that a non-conforming use of any dwelling, building or structure and/or of any land or premises is voluntarily discontinued for 12 months or more, any future use shall be a lawful conforming use.

D. Improvement to an Existing Non-Conforming Use

Unless specifically accepted elsewhere in these regulations, no existing building or premises devoted to a non-conforming use shall be enlarged, extended, reconstructed, or structurally altered, unless the use is changed to a permitted use or a conditionally permitted use under this Zoning Code.

E. Exceptions to the Non-Conforming Regulations

Exceptions to the non-conforming regulations may be permitted by the Building Commissioner in the following cases:

1. A non-conforming residential use may be substantially improved once by increasing the size of the residential structure up to 25 percent.
2. Nothing in these regulations shall be interpreted to prevent normal maintenance or repair of premises, or the alteration, repair, or improvement of a premise to comply with an order to improve the property to minimum building code standards.
3. An existing facility or operation may be permitted to replace existing structures or machinery in order to modernize such facility. No such replacement shall result in the expansion by more than ten percent of the floor area of the structure or facility existing at the time, or more than ten percent of the land coverage on the site existing at the time of enactment of these regulations. The replacement of an existing structure for modernization or any associated expansion shall require that the property comply with the regulations of this Zoning Code, including but not limited to parking regulations, setback requirements, landscaping requirements, buffer requirements and sign regulations.

F. Replacing Damaged Non-Conforming Structures

When a non-conforming building, use, or structure is damaged or destroyed to the extent of more than 60 percent of its fair market value, it shall not be restored or reconstructed except in conformity with regulations of this Zoning Code except as provided below:

1. Legal non-conforming residential dwelling structures that have damage in excess of 60 percent of their fair market value shall be permitted to be rebuilt as the same category of dwelling type (i.e., a single family dwelling may not be rebuilt as a multiple family dwelling).
2. Any rebuilt residential dwelling structure shall not exceed the original dwelling's total livable and non-livable square forage area nor exceed the original structure height.
3. Any rebuilt residential structure shall not encroach beyond the original building setbacks.

CHAPTER 5 OVERLAYS AND SPECIAL DISTRICTS

5.0 Historic Overlay District

A. Purpose

The Village of Newtown has been a continuously settled community since the establishment of a military station in 1792 by Captain Aaron Mercer. It is the desire of this community to celebrate its heritage by preserving architectural elements and regulating new development to recall and amplify the rich history of Newtown.

To achieve this stated desire, the Historic Overlay District has been created, as set forth in this chapter.

B. Historic District Boundaries

The Historic Overlay District shall include all legal lots abutting the following streets:

Along Church Street, south to south boundary of 3433 Church Street. The north boundary is the railroad track on Church Street. The East boundary on SR 32 is the west of Drake Street. The West boundary on SR 32 is the western corporation line.

C. Required Design Standards

The following design standards are required for exterior alterations and new construction in the Historic Overlay District which are subject to site plan approval under Section 10.6 of this Code. The following design review criteria are in addition to the specific regulations and requirements set forth in the underlying zoning districts. All proposals in the Historic Overlay District shall comply with the following:

1. Building Height, Shape, and Scale Requirements

- a. The building's vertical and horizontal dimensions shall be in proportion to one another without overemphasis of either dimension. Horizontally long buildings shall be broken up through the use of recesses or setback variations to cause the façade to appear as a series of proportionally correct masses.
- b. Overall building mass shall consider the depth of a building in relation to both adjoining buildings and the lot upon which the building is intended.

2. Façade Pattern and Detailing Requirements

- a. Windows can be fixed or operable and shall be compatible with the historic structures.
- b. Windows shall be glazed in clear glass rather than tinted glass.

- c. When replacement is necessary, windows should be of a style complimentary to the existing architecture of the structure. For non-historic buildings, windows shall be compatible with the Historic District.
- d. The length of a hypothetical rectangle that encompasses all first story windows and doors shall be the same length as that of a rectangle, which encompasses all second story windows. Windows for commercial buildings, especially those on the first story, can be larger than those typical of residential buildings. They shall show symmetry and proportion to the building and to the windows of the second floor.
- e. Doors shall be of a style complimentary to the existing architecture of the structure.

3. Construction Material Requirements

- a. Approved construction materials in the district include brick, stone, natural wood, clapboard, wood board and batten, wood shingles, and traditionally applied stucco. Prohibited construction materials include vinyl, aluminum, steel siding, or exterior insulation-stucco systems.
- b. Brick in new buildings or additions to existing buildings shall be similar in color, size and texture of brick and mortar joint detail to the historic examples of other historic buildings.
- c. When replacing roofing, every effort shall be made to duplicate the appearance of the original roofing material.

4. Signage Requirements

- a. Signs only for window signs. Sign colors shall be harmonious with the building's materials. Signs may not cover architectural features.
- b. Wall signs shall not project more than six inches from the building surface.
- c. Wall signs shall be at least six inches from the lintel or other trim of the window above or below it.
- d. No more than one right angle sign, projecting not more than four feet is allowed for each business establishment. The bottom of the sign shall be at least eight feet above ground level (sidewalk). The top of the sign shall not extend higher than the bottom of the second story window, the lowest point of the roof, or 25 feet above grade, whichever is lowest.

- e. Window signs may only be applied directly to the inside surface of the window glass. Window signs shall not exceed more than 10 percent of the front building face.
- f. Signs may be externally illuminated. Neon lighting, internally illuminated, and backlit signs are not permitted, unless historically significant to Newtown.

5. Accessory Structure Requirements

- a. Accessory structures shall enhance, yet be subordinate to the primary structure in size, scale, and architectural detail
- b. All accessory structures shall be limited to the rear yard. Accessory structures shall not exceed the height of the principal structure or 1.5 stories in height. The roof style should be limited to either gable or shed roof designs. Flat or gambrel roofs are not permitted.
- c. Decks, patios, and porches shall be compatible with the era and architectural style of the building. On historic buildings, masonry, and concrete patios directly on grade are permissible. Porches are permitted if they are compatible in design to the rest of the building and the era. Above-grade decks are not permitted as additions to historic buildings. On non-historic buildings, masonry, and concrete patios directly on grade are encouraged. Decks are permitted but shall be painted or stained (not clear) and be compatible to the era and architecture of the building.
- d. Arbors, trellises, fences, and other accessory structures shall be of a natural material. If they are made of wood, they shall be painted or stained (not clear.) They should be designed to be compatible with the era and architecture of the building.

6. Lighting Requirements

The use of incandescent, natural gas, or halogen lights is allowed. Sodium lights are prohibited; however, color or neon light may be allowed if of historic significance. Lighting shall also comply with other sections of this Code.

D. Design Guidelines

The following design guidelines shall be taken into consideration for exterior alterations and new construction in the Historic Overlay District which are subject to site plan approval under Section 10.6 of this Code. The following guidelines shall provide direction to applicants but are not required standards. The Planning Commission shall determine, as part of the site plan review process, if a proposed application meets the intent of these design guidelines.

1. Building Height, Shape, and Scale Guidelines

- a. Maximum building height should be similar to the existing heights of the neighboring buildings and/or buildings across the street.
- b. The existing skyline created by roofline contour and cornice should be maintained
- c. Primary structures should have pitched gables and/or sloped shed roofs.
- d. The design of a gabled roof pitch may vary in design but should not be less than 25 percent of the building height as measured from the grade line to the gutter.
- e. The cornice of new buildings should be strong, well-articulated and in proportion to traditional or classical architectural design.
- f. The top of the exposed foundation of a new building shall be consistent with of the average height of the foundation of the building on either side.

2. Façade Pattern and Detailing Guidelines

- a. The shape and configuration of windows and doors for new construction and rehabilitation of buildings should be based on historic and traditional design. The first and second story openings should have a strong relationship to one another. Alterations to window or door size or shape will be permitted on existing buildings only to the extent that such a change would bring about greater historical accuracy.
- b. Window emphasis should generally be vertical, with the height of a window being approximately two times its width. The spacing between windows in historic structures is between one and two times the width of the window. If spacing is only one times the width, shutters should be used. Shutters should be constructed of wood and be proportioned as if they would cover the entire window opening if closed.
- c. Window openings in masonry buildings should be traditional by retaining the sense of sill, lintel, and sides of opening.
- d. For historic buildings, windows should be repaired when possible. If the window unit is to be divided into smaller panes, then it should have true divided lights. Windows should be painted wood.

- e. Commercial buildings may possess a greater amount of building façade occupied by windows and doors than what is appropriate for residential buildings. Commercial buildings need not have first story windows which emphasize the vertical dimension, nor do they have to be the same height as second story windows, but compatibility with the 19th century Village design characteristics is desired.
- f. The main entry of a building should face the street if possible. The entry of a corner building can face the street or be at an angle to the street. Entries may be flush with the building or recessed.

3. Construction Materials Guidelines

- a. A fiber cement material may be used as siding on new construction and as a replacement on non-historic buildings built after 1950. New composite materials are allowed.
- b. Exterior storm/screen windows of extruded painted aluminum in a design approved by the Commission may be allowed as an alternative to replacing existing sash or on a new unclad sash. Alternative materials may be considered.
- c. The color of brick should be uniform rather than being mottled or speckled. Unpainted brick is preferred unless the building has been previously painted.
- d. Wood clapboard siding and brick should be used on the exterior of frame buildings, shall be run horizontally, and should have appropriate lap exposure on siding or course height of brick.
- e. Slate, copper, wood, or standing seam metal roofs are preferred; however, asphalt or fiberglass shingles may be used as well. When asphalt shingles are used, they must be ‘three tab’ or dimensional.

4. Paint Color Guidelines

- a. The simpler the building design, the fewer the number of colors should be used on it, but never more than three different colors on the same building unless it was appropriate to the architecture of that era. The main body of the building should be painted all the same color.
- b. The body and trim of the building should be painted different, but complimentary colors. Colors selected should complement abutting buildings.

5. Signage Guidelines

- a. Signs should respect the overall architectural composition of the building and its scale, while not overwhelming the façade.
- b. Wall signs should have a simple design and be affixed on a continuous, flat, vertical, opaque surface.

6. Lighting Guidelines

Lighting should be used in a very limited manner and only to highlight architectural details on a building, illuminate a sign, or to illuminate walkways and/or parking areas.

E. Review Procedures

These district regulations shall be applied by the Planning Commission during the required site plan approval process for properties located in the Historic Overlay District.

5.1 Planned Unit Development

A. Purpose

It is the purpose of the Planned Unit Development District to permit a developer, through consultation with Village Council and the Planning Commission, to develop a site according to an established plan which would supersede normal zoning requirements of a particular zoning district, although the uses approved within a Planned Unit Development shall conform to the uses as specified in the existing zoning district. Planned Unit Developments are intended to permit creative site planning and allow a developer to incorporate such amenities as common open space into the overall site design. Village Council may approve a Planned Unit Development (PUD) based on the following guidelines and procedures.

B. Types of Planned Unit Developments and Permitted Uses

A PUD may be approved within any zoning district, provided that the use(s) approved by Village Council for the PUD complies with those uses identified as permitted or conditionally permitted within the existing zoning district. For example, an applicant can request approval for a PUD within an R-TF Residential-Two Family District; the subsequent designation would be R-TF-PUD.

C. Required Open Space

A minimum land area of 20 percent of the overall tract shall be reserved for use as open space. This open space may include such areas as pedestrian walkways, parkland, open areas, drainage ways, greenbelts, and other lands of essentially open character. If common open space is provided, ownership of this common open space shall be transferred to a legally established Homeowners Association, or deeded with permanent restrictions for its preservation, or other method agreed upon by the Village, and the proper legal documents necessary for such transfer be prepared by the owner(s). The common open space shall be usable by residents/occupants of the PUD and shall not consist of isolated or fragmented pieces of land which would serve no useful purpose.

D. Required Contents of the Concept Plan

Submission of a Concept Plan is required as the initial process for the establishment of a PUD. Applicants are encouraged to engage in informal consultations with the Planning Commission prior to preparing the Concept Plan, it being understood that no statement or representation by Planning Commission members shall be binding upon the Commission. The applicant shall prepare a Concept Plan and shall submit the number of copies of this Concept Plan as specified by the Building Commissioner along with the Application for a Change of Zoning District to the Planning Commission for approval.

This Concept Plan shall contain a base map of the property showing existing and proposed land use, general topography and physical features, property boundaries, adjacent thoroughfares and access points, vehicular and pedestrian circulation, location of different land use areas, density levels of each area, location of schools, parks or other community facility sites (if any), setback and height requirements, proposed drainage, general utility plan, parking layout, proposed sign plans, the schedule of projected development if construction is to extend beyond a two year time period, all necessary legal documentation relating to the transfer of common open space, if proposed, to the legally established Homeowners Association or protection of common open space, or other mechanism approved by the Village, and other information as may be required by the Village for review.

The Planning Commission shall study the application and Concept Plan and shall hold a public hearing within 60 days of the time of application. Following this public hearing, the Planning Commission shall make a report to Village Council recommending approval or disapproval and the reasons, therefore. The Planning Commission may explicitly impose special conditions relating to the PUD regarding type and extent of public improvements, maintenance of common open space, and any other pertinent development characteristics as needed in making a determination. The time period for review may be extended if agreed upon by the applicant.

E. Conditions of Approval

Upon receipt of the report of the Planning Commission, Village Council shall study and review the proposed Concept Plan and shall approve or disapprove the application on the basis of (1) all application submission requirements have been satisfied, and (2) finding that the following specific conditions are met:

1. That each individual section of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained;
2. That the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts in these regulations;
3. That the proposed internal streets and thoroughfares are suitable and adequate to carry anticipated traffic;
4. That the minimum open space area has been reserved, a means has been established to maintain the area, and is either to be dedicated to the Village of Newtown, be transferred to a legally established Homeowner's Association or other legally established entity, or other mechanism approved by the Village;
5. That any part of a PUD not used for structures, parking and loading areas or streets shall be landscaped or otherwise improved;
6. That the Planned Unit Development District is in conformance with the Village Comprehensive Plan, as may be amended from time to time;
7. That the development will not impose an undue burden on public services and facilities such as fire and police protection;
8. That the density of each individual phase of the PUD, as well as the density of the entire project, shall not exceed the maximum allowable density as permitted in the underlying districts, except as provided for in Section 5.1,F.

F. Increase in Density

An increase in density of 25 percent may be permitted over the maximum allowable density of the underlying zoning district(s).

G. Planning Commission and Village Council Action

If from the facts presented, Village Council is unable to make the necessary findings specified in Section 5.1.E, Conditions of Approval, the application shall be denied or returned to the developer for clarification. In taking action, the Planning Commission and Village Council may deny the Concept Plan or may recommend approval of said plan subject to specified amendments.

If the application is approved by Council, the approval of the Concept Plan shall be limited to the general acceptability of the land uses proposed, density levels and their interrelationship, and shall not be construed to endorse precise location of uses, configuration of parcels, or engineering feasibility which are to be determined in subsequent preparation of detailed site development plans.

Approval of the Concept Plan shall constitute the creation of a separate “PUD” Planned Unit Development Zoning District. The new zoning designation shall incorporate the existing zoning classification.

At the time of adopting any Ordinance establishing a “PUD” District, Village Council shall make appropriate arrangements with the applicant, which will ensure the accomplishment of the public improvements and reservation of common open space of the public improvements shown on the approved Concept Plan. The developer shall post a bond in the amount determined by the Village to ensure completion of the necessary improvements should the developer fail to complete such improvements as agreed upon.

H. Detailed Site Development Plan Approval Procedure

Once the Concept Plan has been approved by the Planning Commission and Village Council, detailed site development plans for each section of the overall planned unit development landholding shall each be reviewed and approved by the Planning Commission prior to the issuance of any Zoning Certificate by the Building Commissioner.

The detailed site development plans shall be in accordance with the original Concept Plan; shall be prepared for the applicant by a professionally competent engineer, architect and/or landscape architect; and shall include the following:

1. Site plan indicating lot lines, building outlines, off-street parking and loading spaces, pedestrian walkways, and vehicular circulation.
2. Preliminary building plans, including floor plans and exterior elevations.
3. Landscaping and buffering plans.

4. Evidence that the development will not impose an undue burden on public services and facilities such as fire and police protection.
5. Specific engineering plans, including site grading, street improvements, drainage and utility improvements and extensions as necessary.

Approval of each detailed site development plan for each unit of a PUD District shall be valid for one year. No Zoning Certificate or Building Permit shall be issued for any structure within the PUD until the final Subdivision Plat has been recorded with the County Recorder.

I. Amendments to an Approved Planned Unit Development

An approved PUD Concept Plan or Detailed Site Development Plan may be amended by following the procedures described in this Chapter. However, minor adjustments in the Detailed Development Plan which become necessary because of field conditions, detailed engineering data, topography or critical design criteria pertaining to drives, curb cuts, retaining walls, swimming pools, tennis courts, fences, building locations and building configurations, parking area locations or other similar project particulars, may be authorized in writing by the Planning Commission. These minor adjustments may be permitted, provided that they do not increase density, decrease the number of parking spaces, or allow buildings closer to residential property lines. Changes determined to be major shall require review and approval by Village Council.

**CHAPTER 6
DIMENSIONAL STANDARDS AND MODIFICATIONS**

6.0 Dimensional Standards

The purpose of this section is to establish dimensional and design standards for lots within the Village of Newtown. Every new development and redevelopment project shall adhere to the setback, yard, and height requirements contained within these dimensional standards tables.

A. Agriculture District (A) Dimensional Standards Table

	Agriculture Uses	All Other Permitted & Conditional Uses
Lot Area (min.)	5 acres	3 acres
Lot Width (min.)	300'	100'
Front Yard Setback (min.)	50'	50'
Side Yard Setback per side (min.)	15'	15'
Rear Yard Setback (min.)	35'	35'
Height (Max/Accessory)	35'/15'	35'/15'
Accessory Structure Setback (min.)	See Section 6.2,D,1 & 2	

B. Residential – Single-Family District (R-SF) Dimensional Standards Table

	Single-Family Detached Dwellings	All Other Permitted & Conditional Uses
Lot Area (min.)	7,500 sf	1 acre
Lot Width (min.)	60'	150'
Front Yard Setback (min.)	30'	40'
Side Yard Setback per side (min.)	5'	20'
Rear Yard Setback (min.)	30'	40'
Height (Max/Accessory)	35'/ 15'	35'/ 15'
Accessory Structure Setback (min.)	See Section 6.2,D,1 & 2	

C. Residential – Two-Family District (R-TF) Dimensional Standards Table

	Single-Family Detached Dwellings	Single-Family Attached Dwellings	Two-Family Dwellings	All Other Permitted & Conditional Uses
Lot Area (min.)	7,500 sf	3,000 sf	12,000 sf	1 acre
Lot Width (min.)	50'	20'	100'	150'
Front Yard Setback (min.)	30'	30'	30'	40'
Side Yard Setback per side (min.)	5'	0'	5'	15'
Rear Yard Setback (min.)	30'	30'	30'	40'
Height (Max/Accessory)	35'/15'	35'/15'	35'/15'	35'/15'
Accessory Structure Setback (min.)	See Section 6.2,D,1 & 2			

1. Two-Family Dwellings with two stories or more require a minimum 50' lot width.

D. Residential – Multi-Family District (R-MF) Dimensional Standards Table

	Single Family Detached Dwellings	Single Family Attached Dwellings	Two-Family Dwellings	3-8 Dwelling Units	Assisted Living & Skilled Nursing Uses	All Other Permitted & Conditional Uses
Lot Area (min.)	7,000 sf	3,000 sf	12,000 sf	7,500 - 43,000 sf	2 acres	1 acre
Lot Width (min.)	90'	20'	100'/60'	80'	200'	150'
Front Yard Setback (min.)	30'	30'	30'	35'	50'	40'
Side Yard Setback per side (min.)	7'	0'	8'/9'	12'	15'	15'
Rear Yard Setback (min.)	35'	30'	35'	35'	50'	40'
Height (Max /Accessory)	40'/15'	35'/15'	40'/15'	40'/15'	40'/15'	40'/15'
Accessory Structure Setback (min.)	See Section 6.2,D,1 & 2					

1. Dwellings with 3 units require a minimum lot area of 7,500 sf per dwelling unit.
2. Dwellings with 4 units require a minimum lot area of 13,500 sf. per dwelling unit.
3. Dwellings with 5 units require a minimum lot area of 19,000 sf. per dwelling unit.
4. Dwellings with 6-8 units require a minimum lot area of 19,000 sf. plus 8,000 sf. per dwelling unit over five units.

E. Planned Village District (P-V) Dimensional Standards Table

	Single Family & Two-Family Dwellings	Single Family Attached Dwellings	3-8 Dwelling Units	Automotive, Filling Stations, & Service Garages	All Other Permitted & Conditional Uses
Lot Area (min.)	6,000 sf	3,000 sf	7,500-43,000 sf	10,000 sf	6,000 sf
Lot Width (min.)	50'	20'	80'	90'	50'
Front Yard Setback (min.)	30'	30'	30'	30'	30'
Side Yard Setback per side (min.)	5'	0'	10'	10'	0-8'
Rear Yard Setback (min.)	30'	30'	30'	20'	0-10'
Height (Max/Accessory)	35'/15'	35'/15'	35'/15'	35'/15'	35'/15'
Accessory Structure Setback (min.)	See Section 6.2,D,1 & 2				

1. Dwellings with 3 units require a minimum lot area of 7,500 sf.
2. Dwellings with 4 units require a minimum lot area of 13,500 sf.
3. Dwellings with 5 units require a minimum lot area of 19,000 sf.
4. Dwellings with 6-8 units require a minimum lot area of 19,000 sf. plus 8,000 sf. per unit over five units.
5. No front yard depth of any use shall exceed the average of the front yard depth of the lots on each side, if such lots are within the same block and within 100 feet of the proposed use or structure.
6. Automotive service stations and gasoline sales fuel pumps and canopy structures covering such pumps shall have a minimum front yard setback of 15 feet.
7. All non-residential and automotive uses have no side yard setback unless the use abuts a residential use, then the side yard setback shall be not less than 5 feet each side. If such other use abuts a residential zoning district, then the side yard setback shall be not less than 8 feet each side.
8. All non-residential and automotive uses have no rear yard setback unless the use abuts a residential use, then the rear yard setback shall be not less than 5 feet. If such other use abuts a residential zoning district, then the rear yard setback shall not be less than 10 feet.

F. General Business District (G-B) Dimensional Standards Table

	Single Family Attached Dwellings	All Permitted & Conditional Uses
Lot Area (min.)	3,000 sf	6,000 sf
Lot Width (min.)	25'	50'
Front Yard Setback (min.)	30'	30'
Side Yard Setback per side (min.)	0'	0-10'
Rear Yard Setback (min.)	30'	10'
Height (Max/Accessory)	45'/15'	45'/25'
Accessory Structure Setback (min.)	See Section 6.2,D,1 & 2	

1. There shall be no minimum side yard setback in the G-B General Business District except when property abuts any R-District; then the minimum side yard setback shall be not less than 10 feet each side.
2. Any multi-family use in the G-B district shall be subject to the use-specific regulations for multi-family uses in section 4.4,C.

G. Light Industrial Park (LIP) Dimensional Standards Table

	All Permitted & Conditional Uses
Lot Area (min.)	20,000 sf
Lot Width (min.)	100'
Front Yard Setback (min.)	40'
Side Yard Setback per side (min.)	15'
Rear Yard Setback (min.)	40'
Height (Max/Accessory)	45'/25'
Accessory Structure Setback (min.)	See Section 6.2,D,1 & 2

1. The minimum side yard setback for properties in the LIP Light Industrial Park District shall be 15 feet with a combined setback of 50 feet for both side yards.

H. Office Research Park (ORP) Dimensional Standards Table

All Permitted & Conditional Uses	
Lot Area (min.)	1 acre
Lot Width (min.)	100'
Front Yard Setback (min.)	50'
Side Yard Setback per side (min.)	20'
Rear Yard Setback (min.)	40'
Height (Max/Accessory)	45'/25'
Accessory Structure Setback (min.)	See Section 6.2,D,1 & 2

1. The minimum side yard setback in the ORP Office Research Park District shall not be less than 20 feet with a total side yard setback of 45 feet.

6.1 Height Modifications

A. Height Limitations

The height limitations stipulated elsewhere in this Chapter may be modified pursuant to the provisions in Sections 6.1 through 6.3.

B. Architectural Features and Farm Buildings

Church spires, domes, flagpoles, antennas, windmills, chimneys, cooling towers, elevator bulkheads, fire towers, belfries, monuments, stacks, derricks, conveyors, stage towers or scenery lofts, tanks, water towers, silos, farm buildings, or necessary mechanical appurtenances, may be erected to any lawful and safe height. Cellular or wireless communications systems are not subject to this exception and shall be regulated according to Section 4.7,C, Cellular or Wireless Communication Systems, of this Code.

C. Places of Public Assembly

Public, semi-public or public service buildings, hospitals (except as otherwise provided), institutions, or schools, when permitted in a District, may be erected to a height not exceeding 60 feet, and churches and similar places of worship may be erected to a height not exceeding 75 feet if the building is set back from each required yard line at least one foot for each foot of additional building height above the height limit otherwise provided in the District in which the building or structure is built.

D. Single Family Dwellings

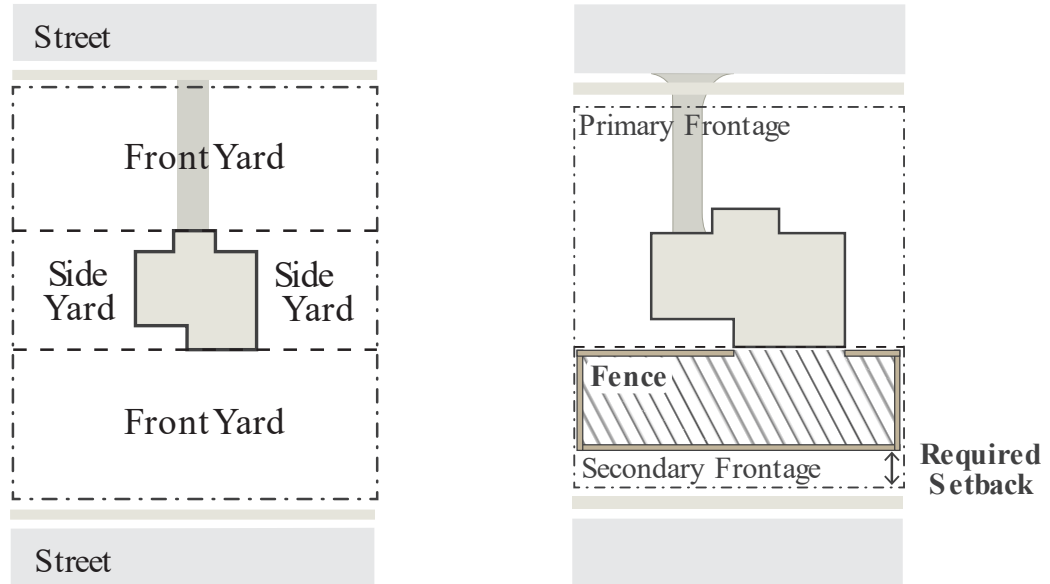
Single family dwellings in the R-SF, R-TF or the P-V Districts may be increased in height by not more than 10 feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than 10 feet, in any event, they shall not exceed three stories or 45 feet in height.

6.2 Frontage and Yard Modifications and Projections

A. Building on Through Lots

Buildings on through lots shall conform to the front yard requirements for each street. In case of reversed frontage, an accessory use shall not extend beyond the setback line of the rear street. See Figures on the next page.

Through Lot (Left) and Reverse Frontage with Accessory Use (Right)



B. Average Depth of Front Yards

In any district, where the average depth of at least two existing front yards on lots within 100 feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed elsewhere in this Chapter, the required depth of the front yard on such lot may be modified. In such case, this modification shall not be less than the average depth of the existing front yards on the two lots immediately adjoining, or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining, provided, that the depth of a front yard on any lot shall be at least 10 feet and need not exceed 50 feet. A request for a reduction in the front yard depth shall require review and approval by the Board of Zoning Appeals.

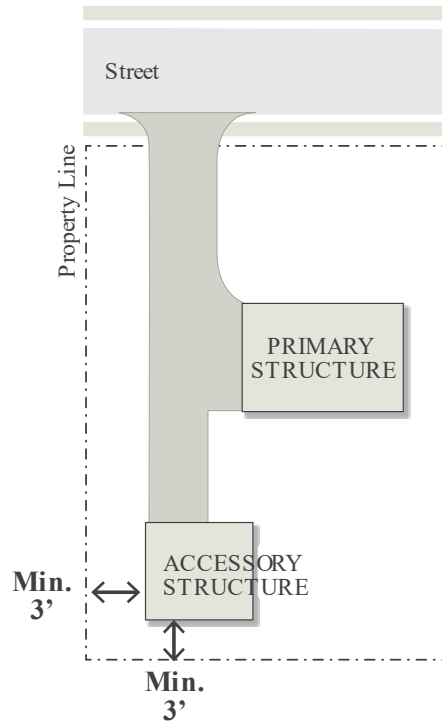
C. Rear and Side Yard Depth Computation

In computing the depths of a rear yard or the width of a side yard, where the rear or side yards abuts an alley, one-half of the width of the alley may be included as a portion of the required rear or side yard, as the case may be.

D. Required Yard Requirements

The following requirements shall apply to the required yards in districts:

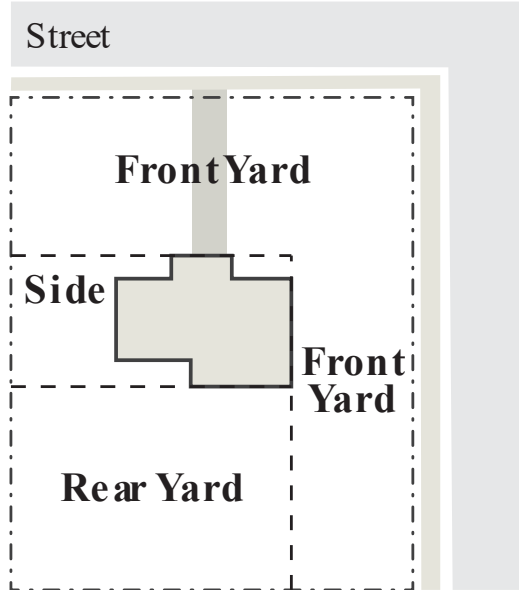
1. Accessory buildings which are not a part of the main building may be built in a rear yard provided that they are not less than three feet from the rear and side lot lines. A maximum of two accessory buildings are permitted, which in combination shall not occupy more than 30 percent of the required rear yard, shall not exceed the size or area of the principal structure or 600 square feet (whichever is less) and shall be located at least 60 feet away from any front lot line, except as provided elsewhere by this Code. However, in the ORP and LIP District, the accessory building(s) may exceed 800 square feet. PODS shall not be considered an accessory building. See Figure below.



2. Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in the rear yard, and except for the ordinary projections of skylights, sills, belt courses, cornices, and ornamental features. This requirement shall not prevent the construction of fences as regulated in Section 4.6,A, Fences and Hedges.

E. Corner Lot Yard Requirements

A corner lot shall be considered to contain two front yards. Front yard setbacks shall apply from both street rights-of-way. See Figure below.



F. Projection of Architectural Features

Terraces, open porches, platform, ornamental features, and fire escapes may project into a required yard, provided these projections are a distance at least two feet from the adjacent side lot line, and provided that they project no more than 10 feet into the front yard. For the purpose of this section, terraces, open porches, and platforms shall be defined as projections that are not more than 30 inches above the finished grade.

G. Yard Requirements Where Lot Includes More Than One Main Building

Where a lot is used for institutional, commercial, industrial, or multiple family purposes, and where the zoning compliance plan is specifically approved by the Building Commissioner, more than one main building may be located on the lot, but only when such buildings conform to all yard and open space requirements at the perimeter of the lot for the district in which the lot is located.

CHAPTER 7 BUFFER YARDS AND LANDSCAPING

7.0 Purpose

The purpose of this Chapter is to provide minimum standards involving the development of land to provide attractive views from roads and adjacent properties to screen visually undesirable uses from view, to require screening between incompatible land uses, and to protect the health, safety, and welfare of the community through the reduction of noise, air and visual pollution, and headlight glare.

7.1 Applicability

This Section shall apply to new property development and any collective substantial expansion of existing structures, except for individual single family and two family dwellings and parking lots of five spaces or smaller. Substantial expansion of existing structures shall be defined as an increase of the existing structure by 20 percent or more.

7.2 General Requirement for Submission

Any property to which this Section applies shall submit a buffer yard plan to the Planning Commission as part of the site plan review process required in Section 10.6. Buffer yard plans shall be prepared by a nursery and/or certified by a design professional practicing within their areas of competence. The site plan shall contain the following information:

- A. Plans shall be at a reasonable scale to indicate all types of proposed landscaping improvements at a minimum of 1' = 20' and shall include the following minimum information:
 - 1. North arrow and scale.
 - 2. The name of applicant/owner.
 - 3. The name, address, and phone number of the person or firm responsible for the preparation of the buffering plans.
 - 4. The dates the plans are submitted or revised.
 - 5. All existing and proposed buildings and other structures, paved areas, planted areas, utility poles, fire hydrants, light standards, signs, fences, and other permanent features to be added and/or retained on the site.
 - 6. All existing plant material to be removed or retained and all new landscaping materials to be installed.

7. All existing and proposed streets, sidewalks, curbs and gutters, railroad tracks, drainage ditches and other public or semi-public improvements within and immediately adjacent to the site.
 8. All property lines and easements.
 9. Any other information which is deemed appropriate by the Zoning Commissioner.
- B. Details shall be shown for the planting of the types of trees, shrubs and ground cover within the buffer yard or landscaped area.

7.3 Approval

No site or development plan required under this Zoning Code shall receive final approval unless a landscaping plan has been submitted and approved. No Certificate of Zoning Release shall be issued unless such plan has been fully implemented on the site, or such plan cannot be implemented immediately due to seasonal conditions but has been guaranteed by a postponed improvement agreement between the developer and the Village.

7.4 Buffer Yard and Screening Standards

- A. All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first.
- B. Once a buffer yard has been approved by the Planning Commission and established by the owner, it may not be used, disturbed, or altered for any purpose.
- C. All specifications for the quality and installation of trees and shrubs shall be in accordance with the most recent edition of "American Standards for Nursery Stock" published by the American Association of Nurserymen. All plant material shall be free from disease and damage. All plant material shall be planted in a manner that is not intrusive to utilities, pavement, pedestrian traffic, or vehicular traffic. All required plant material shall be planted within one year or by the next planting season, as outlined in the latest edition of "American Standards for Nursery Stock", after all construction activity in the area of the new planting has ceased.
- D. Canopy trees shall be deciduous trees with a minimum of 12 feet overall height or a minimum caliper of two inches when installed and have an expected height of at least 35 feet at maturity. Evergreen trees shall be a minimum of five feet in height when installed. Understory trees shall be a minimum of five feet in height in clump form or a minimum caliper of 1.5 inches in single stem form when installed. Shrubs shall be at least 18 inches in height or 24 inches in spread when installed.

- E. The objective of providing a screen is to visually hide whatever is behind the screen. The screen shall be completely opaque. The following standards for each screening material shall be required.
 - 1. When plant material is used as screening it shall meet all height requirements in accordance with this Chapter.
 - 2. To be counted towards screening requirements, evergreen trees and evergreen shrubs shall be planted close enough to fulfill the objective as defined in this Section. Spreading evergreen trees should be planted eight feet on center. Narrow evergreen trees should be planted four feet on center. Evergreen shrubs should be planted at a maximum of four feet on center.
 - 3. Plant material may be used in conjunction with fences, walls, and berm, but the overall effect shall be a completely opaque continuous screen at maturity. Plants may be planted in rows or be staggered, but the overall effect shall be a completely opaque screen.
 - 4. Fences should be used where appropriate to create an effective screen between incompatible uses. Fences to be used as screens should be approved by the Planning Commission during review of the landscape plan and shall be in conformance with regulations as established in Section 4.6,A.
- F. The plant species used shall be identified as appropriate for this region of the United States Department of Agriculture's Plant Hardiness Zone Map and approved by the village. Invasive species to this region shall not be used.

7.5 Screening and Buffering Required

In order to provide protective screening and buffers for residential areas adjacent to nonresidential areas, the Planning Commission shall require a wall, fence, or greenbelt to be provided by the nonresidential property owner in accordance with the buffer yard requirements set forth in Section 7.6. The Planning Commission shall also use the following criteria to evaluate proposed screening and buffer yard requirements:

- A. Screening areas shall be provided for the purpose of minimizing the friction between incompatible land uses and improving the aesthetic and functional quality of new development.
- B. Where vegetative and/or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question, every effort shall be made to retain such conditions. In such cases, additional screening may not be required, provided that provision is made for maintenance of such areas.

- C. The Planning Commission may waive the requirement for a wall, fence, or greenbelt if equivalent screening is provided by existing or planned parks, parkways, recreation areas or by topography or other natural conditions.

7.6 Buffer Yard Requirements

When...	Is proposed to abut...	A minimum buffer yard of...	Ref.
Any Commercial land use	Any Residential zone or land use	An opaque wood or vinyl fence, 6 feet in height, placed at the non-residential property line with 1 Evergreen tree planted per 25 feet of linear distance.	Figure 7.6,A
Any Office land use			
Any Industrial land use	Any Residential, Office, or Commercial zone or land use	<p>The trees shall be located behind the fence and within the buffer yard setback, as follows:</p> <ul style="list-style-type: none"> • Commercial – 20' • Office – 20' • Industrial – 40' 	
Any Multi-Family land use	Any Single Family or Two-Family Residential zone or land use	<p>One canopy tree planted per 30 feet of linear distance.</p> <p>In addition, 1 shrub planted per:</p>	Figure 7.6,B
Any Institutional land use	Any Residential zone or land use	<ul style="list-style-type: none"> • Seven feet of linear distance when the min. buffer width is 10 feet. • Eight feet of linear distance when the min. buffer width is 15 feet. • Ten feet of linear distance when the min. buffer width is 25 feet. 	
Any Non-Residential or Parking lot	Any public right-of-way	<p>One canopy tree planted per 40 feet of linear distance and 1 shrub planted per 5 feet of linear distance when the min. buffer width is 10 feet.</p>	Figure 7.6,C
		<p>One canopy tree planted per 20 feet of linear distance when the min. buffer width is 20 feet.</p>	

Figure 7.6A – Commercial Office, and Industrial Buffer Yards

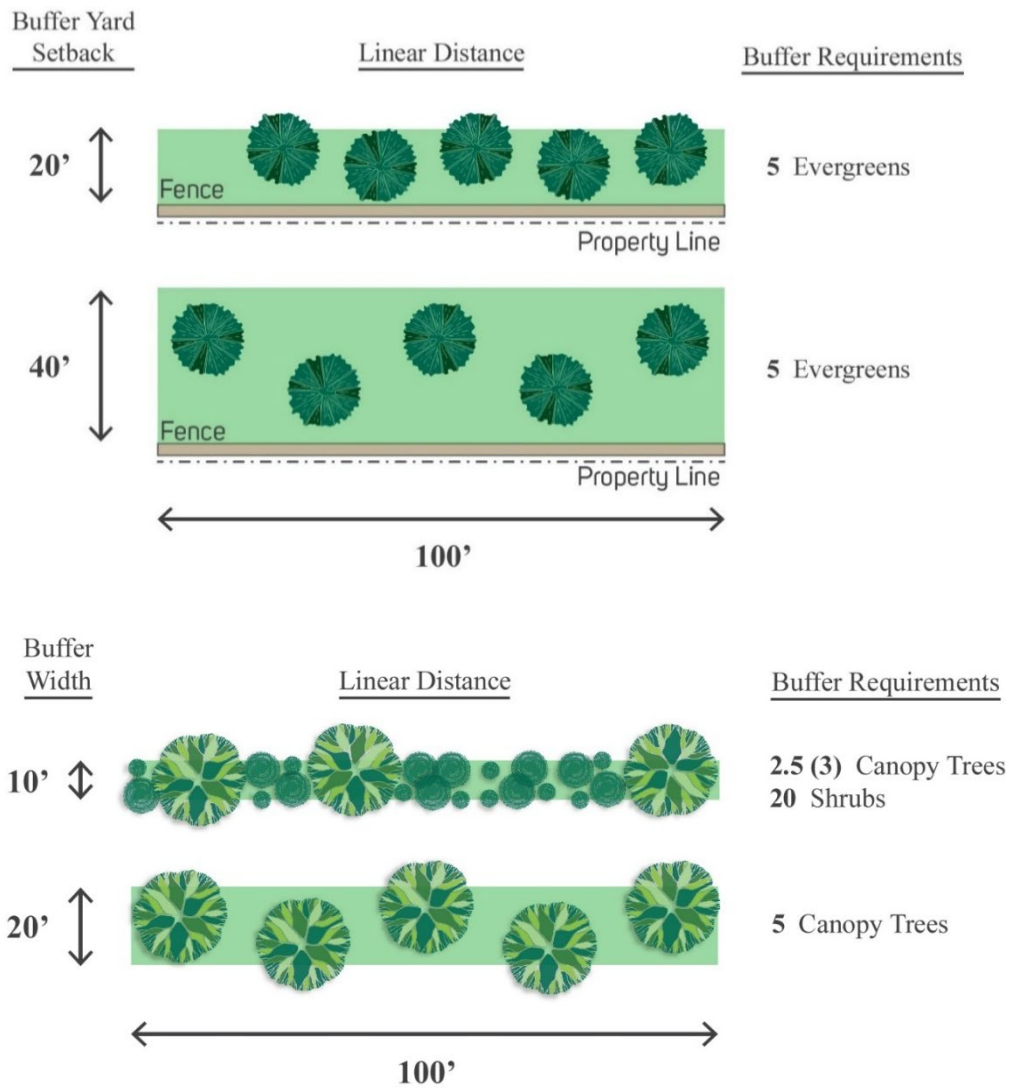
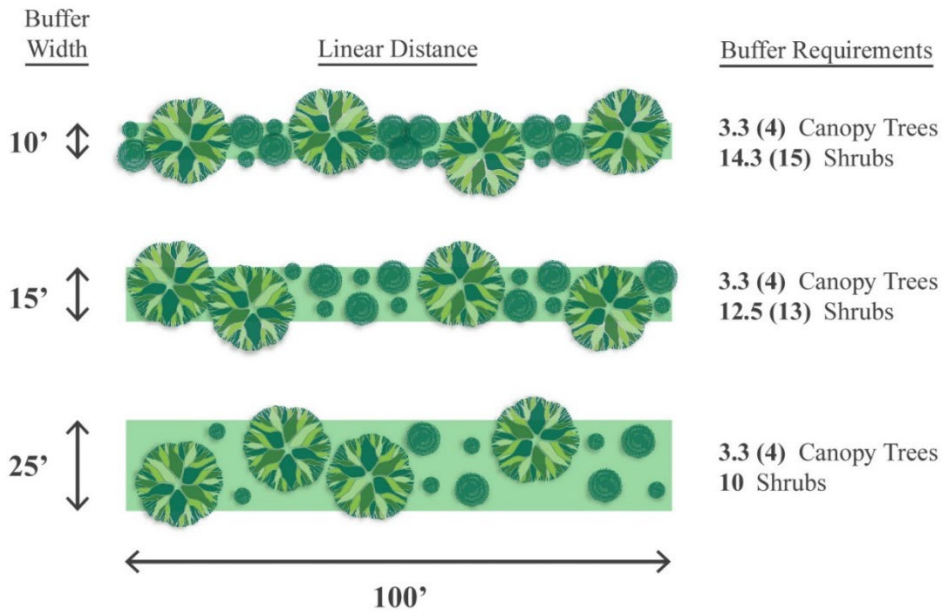


Figure 7.6B – Multi-Family and Institutional Buffer Yards

1. One and a half understory trees or one evergreen tree may be substituted for one canopy tree for up to 50 percent of the required canopy trees.
2. An opaque fence, wall, or berm six to eight feet in height may be used and can substitute for shrub requirements.
3. All landscape material required for the buffer shall be confined to the boundary buffer.

Figure 7.6C – Non-Residential and Parking Lot Buffer Yards



1. An existing woodland area may substitute the five required canopy trees when the minimum buffer width is 20 feet.
2. Berms shall be a minimum of three feet in height.
3. A fence or wall three to four feet in height with 50 percent or less of its surface open or a minimum three feet grade drop from the right-of-way to the vehicular use area may be used and can be substituted for 50 percent of the shrub requirements.
4. All landscape material required for the buffer shall be confined to within the required landscape strip.

7.7 Modification

The Planning Commission shall have the authority to modify any of the aforementioned requirements in this Chapter, in considering an individual site with respect to changes in elevation, environmental impact, durability of plant material, aesthetic appeal, and any other factor that will develop a compatible buffer or screen with the surrounding neighborhood at the time of application.

CHAPTER 8 PARKING AND LOADING

8.0 General Requirements

Any building, structure, or use of land, when erected or enlarged, shall provide for off-street parking spaces for automobiles in accordance with the following provisions of this Chapter. A parking plan shall be required for all uses. The parking plan shall be submitted to the Village as part of the site plan review. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage and construction plans, boundary walls, fences, and a screening plan, as appropriate.

Whenever a building or use constructed or established after the effective date of this Code is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need for an increase of 10 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Code is enlarged to the extent of 50 percent or more in floor area or in the area used, such building or use shall then comply with the parking requirements set forth herein.

8.1 Off-Street Parking and Design Standards

All off-street parking facilities, including entrances, exits, circulation areas and parking spaces, shall be in accordance with the following standards and specifications:

- A. Each off-street parking space shall have an area of not less than one 162 square feet exclusive of access drives or aisles and shall be of useable shape and condition. All parking spaces shall be a minimum of nine feet wide and 18 feet long. Stacking spaces for drive-through windows shall provide a space equal to the required parking space size.
- B. There shall be adequate provisions for ingress and egress to all parking spaces. Where the lot or parking spaces do not provide direct access to a public street or alley, an access drive shall be provided, with a dedicated easement of access as follows:
 - 1. For single family detached dwellings or two family dwellings, the access drive shall be a minimum of eight feet and a maximum of 20 feet in width.
 - 2. For all other uses, the access drive shall be a minimum of 18 feet in width.
 - 3. All parking spaces, except those required for single family detached and two family dwellings, shall have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or into a public street or alley shall be traveling in a forward motion.

4. Parking for uses not permitted in a residential zone shall not be permitted in a residential zone, nor shall any R-District property be utilized as access for uses not permitted in that R-District.

C. Setbacks

1. No parking shall be permitted within the front yard of a single family or two-family dwelling except on a paved driveway. Parking and vehicular areas for non-residential uses and multiple-family dwellings shall be located a minimum of 10 feet from the front right-of-way line and at least five feet from a side or rear property line. Front parking setback areas shall be landscaped according to the regulations for streetscape buffer yard as established in Chapter 7.
2. Within the street right-of-way, it shall be unlawful, except for mailboxes, to place any structure, landscape feature, boulders, or signage, unless specifically approved by the Village of Newtown within the Village right-of-way and the area between the street and public sidewalk.

- D. Off-street parking areas for more than five vehicles shall be effectively screened on each side which adjoins or faces any premises situated in any residential district or institutional premises, by a masonry wall or a solid fence of acceptable design. Such wall or fence shall not be less than four feet nor more than six feet in height and shall be maintained in good condition without any advertising. The space between such wall or fence and the lot shall be landscaped with grass, hardy shrubs, or evergreen ground cover, and maintained in good condition, free of debris and weeds. In lieu of such wall or fence, a strip of land not less than 15 feet in width and planted with an evergreen hedge or dense planting of evergreen shrubs not less than four feet in height may be substituted and this shall be maintained in good condition.

- E. Any off-street parking area and its driveway shall be surfaced with a pavement having an asphalt or concrete surface of sufficient strength to support vehicular loads imposed on it while providing a durable, dustless surface. All parking areas shall be paved, unless otherwise authorized as provided in 8.1,E,1 and 8.1,E,2 below.

1. Gravel may be used for off-street parking areas if approved by Planning Commission. The Planning Commission shall consider the following when reviewing proposed gravel lot:
 - a. The purpose of the gravel lot or area;
 - b. If the gravel lot or area is for temporary or permanent use;
 - c. If the gravel lot or area is to be used for employee, overflow, or special event parking; or

d. If a gravel drive is proposed for a residential use.

2. Gravel Specifications

a. Gravel used for off-street parking or drives shall be #57 size or smaller.

b. Where gravel is used, an asphalt or concrete transition is required that is a minimum of six feet long.

c. Curbing is required for gravel use as specified in 8.1.G.

d. Property owners are required to maintain gravel areas and shall remove any gravel spread from adjacent non-gravel driveways or roads.

e. The minimum size of a gravel lot will be determined by the required number of parking spaces, using a calculation of 162 square feet per parking space plus adequate space for access circulation.

F. All parking spaces, together with driveways, aisles, and other circulation areas, shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system. Storm water plans shall be approved by the Village Engineer.

G. Wherever a parking lot extends to a property line, fencing, wheel stops, curbs or other suitable barriers shall be provided in order to prevent any part of a parked vehicle from extending beyond the property line and destroying the screening materials.

H. Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible by any pedestrian or motorist approaching the access or driveway from a public street, private street, or alley.

I. All parking areas for more than five vehicles shall be marked with paint lines, curb stones, or in some other manner approved by the Village and shall be maintained in a clearly visible condition.

J. Any owner of property used for parking areas shall maintain such areas in good condition without holes and free from all dust, trash, weeds, and other debris.

K. Where necessary, due to multiple curb cuts, the entrance, exits and the intended circulation pattern shall be clearly marked in the parking area. Signage shall consist of pavement markings or freestanding directional signs in accordance with Chapter 9, Sign Regulations, of this Code.

8.2 Determination of Required Spaces

In computing the number of parking spaces required by this Code, the following shall apply:

- A. Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross floor area of a specified use.
- B. Where seating capacity is designated as the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated for each 20 lineal inches of seating facilities.
- C. Fractional numbers shall be increased to the next highest whole number.
- D. Parking space requirements for a use not specifically mentioned in this Code shall be determined by using the most similar and restrictive parking space requirement as specified by the Planning Commission.
- E. When the building floor area is designated as the standard for determining parking space requirements and that number is less than the minimum standard, at least one parking space shall be provided on the premises.

8.3 Outdoor Lighting

Outdoor lighting shall be reviewed by the Building Commissioner and Planning Commission according to the standards established in Section 4.4,F.

8.4 Parking Space Requirements

For the purpose of this Zoning Code, the following parking space requirements shall apply:

Use	Parking Requirement
Residential Uses	
Dwelling, Single Family (attached and detached)	Two spaces for each dwelling unit
Dwelling, Two-Family	
Dwelling, Multi-Family	
Residential Facility	One space per every two beds
Residential Treatment Facility	One space per every two beds
Public/Institutional Uses	
Community and Cultural Facility	One space per 400 square feet of floor area
Educational Institution	Two spaces per classroom. High schools shall provide ten spaces per classroom.
Government Facility	One space for each 400 square feet of floor area

Use	Parking Requirement
Parkland	N/A
Public Assembly Hall	One space for each 50 square feet of floor area
Recreation, Public, Indoor	One space for each 200 square feet of floor area
Recreation, Public, Outdoor	Two spaces per sports court. All other uses shall provide one space per 500 square feet of active recreation area.
Religious Facility	One space for each eight seats in the place of assembly
Commercial Uses	
Assisted Living and Skilled Nursing Care	One space per employee on the largest shift plus one space per every 6 rooms
Automotive Filling Stations	Two spaces per fuel pump
Automotive Sales	One space per employee on the largest shift plus one space per 500 square feet of sales floor area
Automotive Service	Two spaces for each service bay
Automotive Washing	Sufficient stacking space for three vehicles per bay plus one space per employee on the largest shift
Bed and Breakfast	One space for each guest room plus two spaces for the permanent residence
Brewery, Distillery, Winery, Cidery	One space for each 100 square feet of floor area
Clinics (Medical and Dental)	One space for each 200 square feet of floor area
Club	One space for each 200 square feet of floor area
Conference Center	One space per three persons based on the maximum occupant limit
Convenience Store	One space for each 250 square feet of floor area
Eating and Drinking Establishment	One space for each 100 square feet of floor area
Eating and Drinking Establishment, Fast Food	One space for each 50 square feet of floor area plus sufficient stacking space for five vehicles at each drive through window
Entertainment Establishment	One space per each 200 square feet of floor area
Financial Institution	One space for each 400 square feet of floor area plus sufficient stacking space to accommodate the number of automobiles equal to five times the number of teller windows
Funeral Home	One space for each 50 square feet of floor area plus one reserved space for each hearse or company vehicle

Use	Parking Requirement
Hospital	One space for each four beds plus one space per employee on the largest shift
Motels and Hotels	One space for each sleeping room plus one space per employee on the largest shift
Not-for-Profit or Service Clubs	One space for each 250 square feet of floor area
Nursery School and Day Care Center	One space per employee on the largest shift plus three spaces per classroom
Office and Personal Service	One space for each 400 square feet of floor area.
Pharmacy	One space for each 400 square feet of floor area
Printing and Publishing Establishment	One space for each 400 square feet of floor area
Recreation, Private, Indoor	One space per 200 square feet of floor area
Recreation, Private, Outdoor	Two spaces per sports court. All other uses shall provide one space per 500 square feet of active recreation area.
Retail Sale and Service Establishment	One space for each 300 square feet of floor area
Theater	One space for each four seats
Veterinary Hospital	One space per treatment room plus one space per employee on the largest shift
Industrial Uses	
Contractor Yard	One space per employee on the largest shift plus one space for each facility vehicle
Distribution and Fulfillment Establishment	One space for each employee on the largest shift
Manufacturing Facility	One space for each employee on the largest shift
Research and Development Laboratories	One space for each employee on the largest shift
Warehouse and Wholesale Facility	One space for each employee on the largest shift

8.5 Joint or Collective Parking Facilities

The joint or collective parking provision of required off-street parking areas shall comply with the following standards and requirements:

- A. Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap.
- B. All required parking spaces shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or

jointly by two or more buildings or establishments, the required spaces may be located not farther than 500 feet from the building served.

- C. The total of such off-street parking spaces supplied collectively shall be not less than the sum of the requirements for the various uses computed separately.
- D. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by legal counsel of the Village and filed with the application for a zoning permit.
- E. The Planning Commission may reduce the amount of required parking for uses within the P-V Planned Village Center District if such use is within 800 feet of a public parking facility and the Planning Commission finds that such reduction in parking is justified by the applicant.

8.6 Handicapped Parking Requirements

Parking facilities serving buildings and facilities required to be accessible to the physically disabled shall have conveniently located designated parking spaces to be provided as established by the Ohio Basic Building Code.

8.7 Off-Street Loading Space Requirements

In any district, in connection with every building or part thereof hereafter erected and having a gross floor area of 10,000 square feet or more which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, funeral home, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of materials or merchandise.

8.8 Off-Street Loading Design Standards

All off-street loading spaces shall be in accordance with the following standards and specifications:

- A. Each loading space shall have a minimum dimension not less than 10 feet in width, 25 feet in length and a vertical clearance of not less than 14 feet in height.
- B. Notwithstanding other provisions of this regulation and other setback requirements, off-street loading spaces may be located in the required rear or side yard of any G-B, LIP or ORP District provided that not more than 80 percent of the required rear yard or side yard is occupied, and no part of any loading space shall be permitted closer than 50 feet from any right-of-way or residential district unless wholly enclosed on all sides by a wall or uniformly painted board fence not less than six feet in height.

- C. In addition to the setback requirements specified above, screening shall be provided on each side of an off-street loading space that abuts any residential district unless completely enclosed on all sides by a wall or uniformly painted board fence not less than six feet in height. Screening shall include an evergreen hedge or planting no less than six feet in height and maintained in good condition. Screening shall be provided within the required parking setback.
- D. All required off-street loading spaces shall have access from a public street or alley in such a manner that any vehicle leaving the premises shall be traveling in a forward motion.
- E. Any required off-street loading spaces, together with its appurtenant driveways, aisles, and other circulation areas, shall be surfaced with a pavement having an asphalt or concrete binder of sufficient strength to support vehicular loads imposed on it while providing a durable, dustless surface.
- F. All loading spaces, together with driveways, aisles and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system.
- G. Any lights used to illuminate a loading area shall be so arranged as to reflect the light away from any adjacent properties or right-of-way and in conformance with Section 4.4,F.

8.9 Submission to Planning Commission

Detailed drawings of the location, width, and number of entrance driveways to necessary parking and off-street loading facilities shall be submitted to the Planning Commission, with the exception of single family detached and attached dwellings and duplexes, for approval prior to the granting of any Zoning Certificate. Such drawing shall show the number of spaces and locations, dimensions and descriptions of all features enumerated in this Section or as required elsewhere in this Zoning Code. The Planning Commission may require, in addition to those enumerated, further structural or landscaping features such as bumper guards, curbs, walls, fences, shrubs, trees, ground cover or hedges to further the intent and purposes of this Zoning Code. The Planning Commission, in addition, may recommend such changes in location, width and number of driveways as it shall determine are necessary to eliminate any potential traffic hazards.

8.10 Pavement in Required Front Yards of Residential Uses

The impervious surface ratio (ISR) of the required front yard shall not exceed 50 percent. ISR calculations shall include porches, sidewalks, paved and gravel driveways, and any other permanent impervious surfaces which project into the required front yard.

CHAPTER 9 SIGN REGULATIONS

9.0 Purpose

It is the purpose of these sign regulations to permit the use of signs as a means of communication in the Village; to maintain and enhance the Village's natural and manmade environment; to encourage an attractive and healthy economic environment; to minimize the possible adverse effects of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations.

In establishing these purposes, the Village has determined that, without adequate regulation and design standards, signs are a nuisance. Excessive signs create dangerous traffic conditions, obstruct views, intrude on motorist and pedestrian enjoyment of the natural and manmade beauty of the Village, and as such are detrimental to the public health, safety, and general welfare of the Village.

In view of the foregoing, any sign that does not conform to the regulations of this Chapter, or any subsequent amendment thereto, shall therefore be deemed a public nuisance, and as such, shall be abated as provided herein. The regulations contained in this Chapter are the minimum regulations necessary to abate the nuisance and to achieve the purposes of this Chapter.

This Chapter shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this Chapter is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of the Chapter which can be given effect without the invalid provision.

9.1 Application of Chapter

- A. The provisions of this chapter shall apply to and govern signs in all districts. No sign shall be erected or maintained unless it follows the regulations governing location and bulk of structures for the district in which it is located, unless such sign is otherwise specifically regulated by special use provisions relating to variances.
- B. Any sign already established on the effective date of this Zoning Code, which sign is rendered nonconforming by the provisions of this Zoning Code, and any sign which, as a result of subsequent amendments of this Zoning Code, shall be rendered nonconforming, shall be subject to the provisions of Section 4.8.
- C. Wherever a commercial sign is allowed or permitted under this Chapter, an owner may place a non-commercial sign, subject to the time, place, and manner provisions of this Chapter, without applying for a permit and/or paying a fee that otherwise would be required for the placement of a commercial sign on the lot; provided, that the sign structure or mounting device is legal without consideration of message content. This provision prevails over any provision to the contrary in this Code. The purpose of this provision is to prevent any inadvertent favoring of commercial

speech over non-commercial speech or favoring of any particular non-commercial message over any other non-commercial message. This provision does not create a right to increase the total amount of signage on a lot or parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted.

- D. All non-commercial speech is considered on-premises signage and is entitled to the privileges that on-premises signs receive under this section.
- E. Notwithstanding any other provision herein, signs that display a non-commercial message are entitled to the maximum square footage allowed any sign within the same zoning district.
- F. Notwithstanding any other provision herein, signs that display a non-commercial message are not subject to the temporal limitations otherwise set forth in this Chapter; however, such signs remain subject to the provisions of Section 9.12.

9.2 Prohibited Signs

A. The following signs and sign components are prohibited:

- 1. Signs not constructed in compliance with this Code and any other applicable regulations, or a variance granted pursuant to Section 9.14.
- 2. Any sign requiring a permit in accordance with this Chapter and not having said permit.
- 3. Mobile or portable signs as depicted below:



- 4. Signs that rotate, or incorporate animation, moving parts, flashing lights, or changing color.
- 5. Portable signs carried by sign walkers.
- 6. Snipe signs.
- 7. Deteriorated signs.
- 8. Abandoned signs.
 - a. Unattended signs on public property, including, but not limited to, parks and right of ways, shall be considered abandoned signs. Such abandoned

signs may be disposed of or destroyed without notice. Such destruction or disposal is not subject to appeal.

9.3 Signs Exempt from this Chapter

A. The provisions of this Chapter shall not apply to the following:

1. Signs not legible beyond the boundaries of the lot or parcel upon which they are situated, or from any public thoroughfares or right of way.
2. Government signs.
3. Public signs.
4. Seasonal or holiday displays that contain no commercial message.
5. Signs on a truck, bus, trailer, or other vehicle while such vehicle is operated in the normal course of business which is not primarily the display of such signs.
6. Flags and pennants that contain no commercial message.
7. Tablets, grave markers, headstones, statuary or remembrances of persons or events that contain no commercial message.
8. Works of art containing no commercial message.
9. Cornerstones containing no advertising message incorporated into the building design as an architectural feature.
10. Corporate limit signs.

9.4 Signs Partially Exempt from Chapter

A. The following signs may be erected or constructed without a permit but may be subject to additional regulations under this Chapter. Where a sign is erected pursuant to a federal or state statute or a court order, the sign may exceed the size standards of this Code or otherwise deviate from the standards set forth in this Code to the extent that the statute or court order expressly requires the larger size or other deviation. In all other respects, such signs shall conform to the standards of this Code:

1. Signs installed by employees or officials of a state or federal agency in the course of their governmental duties and bearing no commercial message;
2. Signs required by an order of a court of competent jurisdiction;

3. Signs installed by a transit company with a franchise or other right to operate in Village where such signs are installed along its routes and bear no commercial message.
4. Residential nameplates.
5. Temporary signs as indicated in Table 9.6.

9.5 Signs Allowed in the Right of Way and on Public Property

The following signs, and only the following signs, shall be allowed in the public right of way in the Village or in parks or on other public property controlled by the Village:

- A. Government signs.
- B. Public signs.
- C. Signs installed by employees or officials of a state or federal agency in the course of their governmental duties and bearing no commercial message.
- D. Signs required by a court of competent jurisdiction.
- E. Signs installed by a transit company with a franchise or other right to operate in the Village, where such signs are installed along its routes and bear no commercial message.
- F. Signs installed and maintained by the Village of Newtown that may contain either commercial or non-commercial messages as part of a logo sign/directional sign program, through which space is made available to users on a nondiscriminatory basis in accordance with separately published criteria and with payment of a fee.
- G. Corporate limit signs.
- H. Signs located in parks that relate to the use of one or more facilities (including temporary uses by particular entities or individuals), provided that such signs shall not be legible from any public right of way outside of the park.
- I. Signs for concessionaires and event sponsors inside stadiums, arenas or ball fields or such other facilities. Signs located inside an outdoor facility, if such facility is located more than 400 feet from the nearest right of way, shall be deemed not to be legible from such right of way even if they may be legible from some locations outside the facility.
- J. Street banners as permitted by the Village's banner policy.

9.6 Temporary Signs

Temporary signs shall be permitted as specified in this Section, including the Temporary Sign Standards Table below.

- A. Temporary signs bearing a commercial message shall be located on the premises to which they refer.
- B. Temporary signs shall not be illuminated.
- C. Temporary signs are prohibited in the right of way.
- D. Temporary signs shall be securely fastened or attached to a stationary structure or ground in such a manner as to prevent swinging or other significantly noticeable movement.
- E. Temporary signs shall be maintained in good condition. Any temporary sign that is constructed of lightweight wood and cardboard, or of wire frame and plastic, is deemed to have a lifespan of 60 days, after which time, such temporary sign is deemed dilapidated and shall be replaced or removed.
- F. Any temporary sign violating the requirements of this section is declared to be a public nuisance and the Building Commissioner is authorized to remove the same or cause it to be removed.
- G. Temporary signs shall not be posted on any traffic control device, utility pole, railroad sign or signal.
- H. Temporary Signs Table (next page).

Type of Temporary Signs	District(s)	Type of Sign Permitted	Max Sign Area / Height	Max Number	Permit Required	Setback and Location	Permitted Duration
Signs on vacant lots, buildings, or tenant spaces	All	1. Freestanding 2. Wall (R-MF, G-B, and LIP)	1. 8 SF / 4 ft. 2. 16 SF / None	One per road or building frontage	No	Outside of Right-of-Way	Remove within 30 days if lot or building is no longer vacant
Site Sign	Residential	Freestanding	8 SF / 4 ft.	One per road frontage	No	Outside of Right-of-Way	Remove within 30 days after work is complete
Site Sign – Non-Residential	G-B, ORP, LIP, P-V	1. Freestanding 2. Wall	1. 16 SF / 6 ft. 2. 32 SF / None	One per road or building frontage	Yes	Outside of Right-of-Way	Remove within 30 days after work is complete
Yard Sign	Residential	Freestanding	8 SF / 4 ft.	One per road frontage	No	Outside of Right-of-Way	Remove within 60 days after work is complete
Yard Sign – Non-Residential	G-B, ORP, LIP, P-V	1. Freestanding 2. Wall	1. 16 SF / 6 ft. 2. 32 SF / None	One per road or building frontage	Yes	Outside of Right-of-Way	Two times per year not to exceed 30 days each
Public Issue Sign / Non-Commercial Sign	All	1. Freestanding 2. Wall (R-MF, G-B, and LIP)	1. 8 SF / 4 ft. 2. 16 SF / None	Four	No	Outside of Right-of-Way	Faded, worn, cracked, or ripped signs are to be removed
A-Frame or Sandwich Board	G-B, ORP, LIP, P-V	Freestanding	10 SF per side / 4 ft.	One	No	One foot from Right-of-Way or 1.5 feet from the curb	Daily provided the sign is removed at closing.

9.7 General Provisions

The following regulations shall apply to all permitted signs in the Village:

- A. Signs shall not obstruct or interfere with traffic or traffic visibility.
- B. Signs shall not obstruct or interfere with any ingress or egress to a building or other premises which is required by any applicable fire or building codes or any window or other opening in any building providing ventilation to such building.
- C. Illuminated Signs
 - 1. When permitted under this Chapter, signs may be illuminated by either external or internal sources of light; however, illuminated signs where any part of the illumination flashes on and off or displays change in any degree of intensity shall not be permitted.
 - 2. Any external illuminated signs located within 100 feet of any Residential district shall cease to be illuminated between the hours of 10:00 P.M. and 6:00 A.M., unless the establishment is open for business.
- D. Small directional or informational signs, such as “IN”, “OUT”, “REST ROOMS”, etc., shall be permitted, provided that each such sign shall be limited to two square feet in any face area, with a maximum of two signs per curb cut and a total of no more than four signs per property. Such signs may be internally lighted but shall be located no closer than five feet to any property line or right-of-way, shall not exceed four feet in height and shall not obstruct the view of any drivers on or off the premises.
- E. No sign, whether freestanding or attached to a building or other structure, may project over the right-of-way of any public street, sidewalk, or other public right-of-way. Any sign which encroaches on a right-of-way shall be immediately removed.
- F. Unsafe Signs
 - 1. The Building Commissioner shall inspect signs or other structures governed by this Code upon notice of a complaint and, if upon such inspection, the Building Commissioner shall determine that any sign is or has become defective or insecurely mounted or supported so as to constitute a public or traffic hazard, the Building Commissioner shall order such sign to be removed or repaired so as to eliminate such hazard.
 - 2. If the Building Commissioner determines that such sign is of immediate danger, he shall place or cause to be placed signs or barriers indicating such danger and shall be empowered to order its immediate removal or repair.

3. The Building Commissioner shall order rusted signs or signs in disrepair or with peeling paint or other damage to be repaired or removed.
4. The owner or persons in control of such sign shall bear the full cost of compliance with such order of the Building Commissioner.

9.8 Permitted Signs in Non-Residential Districts

The following provisions define the categories of signs permitted by this Chapter in the A Agricultural, G-B General Business, ORP Office Research Park, and LIP Light Industrial Park Districts. All other provisions of this Chapter, which are by their nature applicable to any of the following categories of signs, shall apply to such categories.

A. **Wall Signs:** Every commercial, business, industrial or institutional use located in the A, G-B, ORP, and LIP Districts may erect and maintain, upon or incorporated into the structure of the building or portion of a building in which such use is maintained, one wall sign per use, either illuminated or non-illuminated.

1. Signs may be attached to the exterior walls or other vertical surfaces of such buildings but may not extend beyond the parapet of the building. The face of such signs shall be parallel to the face of the building.
2. The total wall sign area on each building shall not exceed 10 percent of the front building face.
3. No portion of a sign shall project more than one foot beyond the face of the building, nor extend beyond the end of the building face.
4. No building shall have a sign or lettering painted directly on the building surfaces.
5. No building shall have a roof mounted sign, except for signs mounted on the face of a mansard roof.
6. A property owner may allocate up to 50 percent of the allowable total wall sign area to a building wall other than the front wall of the building; however, the total wall sign area for the entire building shall not exceed 10 percent of the front building face.
7. No wall sign shall exceed 150 square feet in area.

B. **Ground Signs**

1. No portion of any ground sign shall be closer than five feet to any property line or right-of-way.
2. No portion of any such sign may exceed eight feet in height.

3. No ground sign shall be closer than 50 feet to any other freestanding signs. Distance shall be measured on a straight line directly between signs.
4. Every commercial, business, industrial, or institutional use or multiple development located in a Non-Residential Zoning District may erect and maintain one or more ground signs as follows:

<u>Road Frontage</u>	<u>Number of Signs Permitted</u>
0 to 400 feet	One (1) sign
401 to 800 feet	Two (2) signs
801 feet or more	Three (3) signs

- a. In the case of a user or multiple development located on a corner lot, the aforesaid minimum frontage shall be computed by adding together the frontages on each abutting street or road.
 - b. If the premises upon which a ground sign is erected fronting on more than one public street, other than a corner lot, the street frontage nearest the sign(s) shall be used in determining the maximum number of permitted signs on such streets.
5. Display surface area for ground signs:
 - a. The sign area for a ground sign shall not exceed 50 square feet per display surface. More than one display surface shall only be permitted when such surfaces are placed back to back and cannot be viewed at the same time.
 - b. In the case of a multiple development, the permitted total area of display surfaces of a ground sign shall include all the display surfaces of any individual signs identifying separate uses in such multiple development.
 - c. In the case of a multiple development located on a corner lot, the aforesaid minimum frontage shall be computed by adding together the frontages on each abutting street or road.
 - d. If the premises upon which a freestanding sign is erected fronts on more than one public street, other than a corner lot, the street frontage nearest the sign shall be used in determining the maximum permitted sign area on such street.
 - e. The allowable area of a freestanding sign may include a section for changeable letters. Such area shall not exceed 50 percent of the sign area.

- C. Landscaping of Signs: Any ground mounted sign shall have landscaping beneath the sign according to the following standards:
1. The minimum landscaped area shall be equal to the area of the sign face.
 2. The landscaped area shall include all points of structural support attachment to the ground.
 3. Where the required landscaped area is adjacent to a paved surface accessible to vehicular traffic, a raised non-mountable curb suitable to prevent the encroachment of vehicles is required. The minimum horizontal distance between the face of any required curb and any part of the sign is 36 inches.
 4. The landscaped area shall include living plantings located and maintained. The use of concrete, asphalt, or other paved surface inside the required landscaped area beneath the sign is prohibited.
- D. A-Frame Signs. In the non-residential zoning district, if a property has a minimum five foot wide sidewalk, each business may have one A-Frame sign (no permit required), similar type portable “sandwich board” style sign, provided all the following conditions are met:
1. The sign shall only be on display during business hours of the business it advertises and may contain changeable copy.
 2. The sign shall not exceed 30 inches in width and 48 inches in height.
 3. The sign shall be placed on the sidewalk only with the approval of the owner of the front property.
 4. Its nearest edge shall be placed either a maximum of one foot from the right-of-way line or between one and 1.5 feet from the curb.
 5. Signs should be of a sturdy design and construction that resists being moved or blown over by the wind. However, they shall not be attached to publicly owned signposts, hydrants, trees, or other street furnishings located in the right-of-way.
- E. Digital Signs. For all non-residential uses, up to 50 percent of the allowable sign area may incorporate a digital sign subject to the approval of a conditional use permit and to the regulations in this Section 9.8,E.
1. Each digital message or image shall have a minimum hold time of 30 seconds.

2. Each digital sign shall contain a default mechanism that will freeze the sign in one position or make the screen go black whenever the aggregate area or any part of the digital video display panel is unlit or malfunctions to the extent that it exceeds five percent of the total video.
3. Digital signs shall have an automatic dimming capability that adjusts the brightness to the ambient light at all times of day and night.
 - a. The maximum daytime brightness shall not exceed 5,000 nits.
 - b. The maximum nighttime brightness shall not exceed 250 nits.
4. The hours of operation for a digital sign are set as follows:
 - a. 5:00 A.M. until 11:00 P.M., or until 30 minutes past the closing of the establishment or facility.
 - b. An establishment or facility that is open 24 hours a day is not required to turn off their digital sign.
5. In no instance shall the digital sign cause light to trespass onto an adjacent residential district or use.
6. Each digital sign shall be static and may not display animated, scrolling, moving, or flashing messages or video which simulates such. Each static message shall change instantaneous without fading, flashing, or animation of the message or image.
7. Only one digital sign is allowed per parcel or development.
8. Digital message centers shall use full-color LED technology.

9.9 Permitted Signs in P-V Planned Village District

The following provisions define the categories of signs permitted by this Chapter in P-V Planned Village District and set forth certain specific regulations with respect to each category. All other provisions of this Chapter, which are by their nature applicable to any of the following categories of signs, shall apply to such categories.

- A. **Wall Signs:** Every commercial, business, industrial or institutional use located in the P-V Planned Village District may erect and maintain, upon or incorporated into the structure of the building or portion of a building in which such use is maintained, one wall sign per use, either illuminated or non-illuminated signs.
 1. Such signs may be attached to the exterior walls or other vertical surfaces of such buildings but may not extend beyond the parapet of the building. The face of such signs shall be parallel to the face of the building.

2. The total wall sign area on each building shall not exceed 10 percent of the front building face upon which they are mounted.
 3. No portion of a sign shall project more than one foot beyond the face of the building, nor extend beyond the end of the building face.
 4. No building shall have a sign or lettering painted directly on the building surfaces.
 5. No building shall have a roof mounted sign, except for signs mounted on the face of a mansard roof.
 6. A property owner may allocate up to 50 percent of the allowable total wall sign area to a building wall other than the front wall of the building however, the total wall sign area for the entire building shall not exceed 10 percent of the front wall area.
 7. No wall sign shall exceed 100 square feet in area.
- B. Ground Signs Every commercial, business, industrial, or institutional use or multiple development located in a P-V Planned Village District may erect and maintain one ground sign.
1. No portion of any ground sign shall be closer than five feet to any property line or right-of-way.
 2. No portion of any such sign may exceed five feet in height.
 3. No ground sign shall be closer than 25 feet to any other ground sign. Distance shall be measured on a straight line directly between signs.
 4. The sign area for a ground sign shall not exceed 40 square feet per display surface. More than one display surface shall only be permitted when such surfaces are placed back to back and cannot be viewed at the same time. The allowable area of a ground sign may include a section for changeable letters. Such area shall not exceed 50 percent of the sign area.
- C. Landscaping of Signs: Any ground mounted sign shall have landscaping beneath the sign according to the following standards:
1. The minimum landscaped area shall be equal to the area of the sign face.
 2. The landscaped area shall include all points of structural support attachment to the ground.

3. Where the required landscaped area is adjacent to a paved surface accessible to vehicular traffic, a raised non-mountable curb suitable to prevent the encroachment of vehicles is required. The minimum horizontal distance between the face of any required curb and any part of the sign is 36 inches.
 4. The landscaped area shall include living plantings located and maintained. The use of concrete, asphalt, or other paved surface inside the required landscaped area beneath the sign is prohibited.
- D. A-Frame Signs. In the non-residential zoning district, if a property has a minimum five foot wide sidewalk, each business may have one A-Frame sign (no permit required), similar type portable “sandwich board” style sign, provided all the following conditions are met:
1. The sign shall only be on display during business hours of the business it advertises and may contain changeable copy.
 2. The sign shall not exceed 30 inches in width and 48 inches in height.
 3. The sign shall be placed on the sidewalk only with the approval of the owner of the front property.
 4. Its nearest edge shall be placed either a maximum of one foot from the right-of-way line or between one and 1.5 feet from the curb.
 5. Signs should be of a sturdy design and construction that resists being moved or blown over by the wind. However, they shall not be attached to publicly owned signposts, hydrants, trees, or other street furnishings located in the right-of-way.

9.10 Signs Permitted in Residential Zoning Districts

The following provisions define the categories of signs permitted by this Chapter in Residential Zoning Districts and set forth certain specific regulations with respect to each category. All other provisions of this Chapter, which are by their nature applicable to any of the following categories of signs, shall apply to such categories.

- A. Wall Signs.
1. For residential structures utilized for home occupation or professional services use, one non-illuminated wall sign may be erected and maintained. The display surface of such sign shall not exceed two square feet.
 2. For semipublic, public, or institutional use, having less than 100 linear feet of frontage, one non-illuminated wall sign may be erected and maintained. The display area of such sign shall not exceed four square feet.

3. For semipublic, public, or institutional use, having at least 100 linear feet of frontage, one non-illuminated wall sign may be erected and maintained. The display area of such sign shall not exceed 32 square feet, provided; however, that the total signage on the lot shall not exceed 64 square feet.

B. Ground signs.

1. For semipublic, public, or institutional use, having at least 100 linear feet of frontage one non-illuminated ground sign may be erected and maintained. The area of each display surface of the sign shall not exceed 32 square feet, nor shall the total of all surfaces exceed 64 square feet. Such ground sign shall be at least five feet from all front property lines and right-of-way. Total signage on the lot shall not exceed 64 square feet.

C. Nameplates.

Nameplates shall subject to the following standards:

1. Single-Family Residential. There shall be not more than one nameplate, not exceeding two square foot in area, for each dwelling unit. On a corner lot, two such nameplates for each dwelling unit, one facing each street, shall be permitted.
2. Multi-Family Residential. For multi-family buildings, a single identification sign, not exceeding 24 square feet in area may be displayed. On a corner lot, two such signs, one facing each street, shall be permitted.

D. Entranceway Sign.

1. One entranceway sign is permitted located at each primary entrance leading into a residential subdivision or multi-family development.
2. A landscaping area equal to the sign area shall be provided around the sign base. The landscape area shall include living plants aesthetically located and maintained.
3. Any illumination of entranceway signs shall be from an external illumination source. Internally illuminated signs are not permitted.
4. Entranceway signs shall match or surpass the construction materials and architectural style of the housing units located within the subdivision.
5. Residential entranceway signs shall not exceed 12 feet in height or 150 square feet in area.

9.11 Signs in a Planned Unit Development

Signs in a Planned Unit Development shall conform to the regulations of the underlying or attached district.

9.12 Maintenance of Signs

All signs and the immediate surrounding premises shall be maintained by the owner of such signs or his agent in a clean condition, free and clear of all rubbish and weeds.

9.13 Sign Permit Applications and Fees

Unless specifically exempt under this Chapter, no sign shall be erected, placed, installed, or otherwise established in the Village unless a permit has been issued by the Building Commissioner. Such permit shall be obtained through the office of the Building Commissioner. A fee to be determined by Council shall be charged for each sign permit.

9.14 Permit Decision, Variance and Appeal Process

- A. When a permit of any kind is required for a sign, the Building Commissioner shall deny, approve with conditions, or approve without conditions such permit in an expedited manner no more than 20 days from the receipt of a complete application for such a permit, including the applicable fee.
- B. When a permit of any kind is required for a sign, and the permit application or permit appeal demonstrates that the sign would comply with all applicable requirements of this section, the permit application or permit appeal shall not be denied.
- C. If the permit is denied or approved with conditions, the Building Commissioner shall prepare a written decision within 10 days of his or her decision, stating the reason or reasons for the action and describing the applicant's appeal rights and the applicant's rights to seek a variance under Section 10.7,F of this Zoning Code and provide it to the applicant.
- D. When the BZA receives an appeal from the denial or approval with conditions of a permit required for a sign, the Board shall hold a hearing as set forth in Chapter 10.7 of this Zoning Code.
- E. Following the hearing, the BZA shall arrive at a decision as set forth in Section hearing process of this Zoning Code.
- F. If the applicant elects to file an appeal from the BZA's decision in Common Pleas Court, the applicant shall follow the procedure set forth in Chapter 36 of this Zoning Code and Chapters 2505 and 2506 of the Ohio Revised Code.

9.15 Rights Reserved by the Village

The Village reserves the right to erect Village name signs, informational, seasonal and traffic signs anywhere that the public health, safety, and general welfare of the Village are served.

9.16 Enforcement

Enforcement of this chapter shall be the responsibility of the Building Commissioner and such other appropriate personnel as may be designated by the Building Commissioner.

CHAPTER 10 ADMINISTRATION

10.0 Purpose

This Chapter sets both the powers and duties of the Planning Commission, the Board of Zoning Appeals, the Village Council, and the Building Commissioner with respect to the administration of the provisions of this Zoning Code.

10.1 Responsibilities of the Building Commissioner

A Building Commissioner shall be appointed by the Village Council. The Building Commissioner shall have the following responsibilities and powers:

- A. Enforce the provisions of this Code and interpret the meaning and application of its provisions, including both map and text.
- B. Receive, review, and make determinations on applications for zoning permits.
- C. Issue zoning permits as provided by this Code and keep a record of same with notations of special conditions involved.
- D. Review and process plans pursuant to the provisions of this Code.
- E. Make determinations as to whether violations of this Code exist, determine the nature and extent thereof, and notify the owner in writing, specifying the exact nature of the violation and the manner in which it shall be corrected by the owner, pursuant to the procedures in this Code.
- F. Conduct inspections of buildings and uses of land to determine compliance or non-compliance with this Code.
- G. Maintain permanent and current records required by this Code, including but not limited to the Official Zoning Map, Zoning Permits, inspection documents and records of all variances, amendments, and conditional uses. These records shall be made available for use of the Village Council, Planning Commission, Board of Zoning Appeals and to the public.
- H. Initiate the revocation of a permit or approval issued contrary to this Code.
- I. Act upon all applications within 30 days of their date of filing. A Zoning Certificate or written notification and explanation of refusal shall be issued to the applicant within said 30 days. Failure to notify the applicant of such refusal within this period shall entitle the applicant to submit his request to the Village Board of Zoning Appeals.

- J. Examine and refer to the Planning Commission applications for a Zoning Certificate when site plan review is required as specified in Section 10.6.

10.2 Village Planning Commission

- A. Composition; Terms of Office

The Village Planning Commission shall consist of five members, all of whom shall be residents of the incorporated area of the Village, and whose term shall be for the length of time as provided in the Ohio Revised Code. The Composition of the Commission shall be as follows:

1. The Mayor;
2. One member of Council (to be elected by Council); and
3. Three other residents of the Village appointed by the Mayor.

- B. Responsibilities

The Planning Commission shall have the following responsibilities and powers as they relate to this Code:

1. Continuously review the effectiveness and appropriateness of this Code and recommend such changes or amendments as it deems appropriate.
2. Initiate advisable Official Zoning District Map changes, or changes in the text of the Code where same will promote the best interest of the public through recommendation to the Village Council.
3. Review proposed zoning amendments, Planned Unit Development applications, Historic District Overview and Historic District Appeals as filed by a property owner.
4. Conduct site plan review for projects requiring such approval.
5. Review and approve/disapprove Conditional Use applications. A substitution of a previously approved Conditional Use, for a similar Conditional Use may be administratively granted by the Building Commissioner.
6. Function, in addition, as provided by all other applicable Sections of the state law, Chapter 713 of the Ohio Revised Code.

- C. Decisions of Planning Commission

Any decision by the Planning Commission requires the concurrence of a majority of the members present for the vote. The Planning Commission shall render a

decision within 60 days from the date of the close of the public hearing unless an extended period of time is mutually agreed upon by the applicant and the Board.

The Planning Commission shall notify the applicant in writing of the decision of the Commission, which shall include the reasons for the action taken.

10.3 Conditional Use Permits

A. Conditional Use Process

1. The Planning Commission may hear and decide upon, in accordance with the provisions of these regulations, applications for a Conditional Use Permit. The purpose of a Conditional Use Permit is to allow a proper integration of uses into the Village which may only be suitable in specific locations within certain zoning district(s) or only if such uses are designated or laid out in a particular manner on the site.
2. In considering an application for a Conditional Use Permit, the Planning Commission shall make an affirmative finding that the proposed Conditional Use is to be located in a district wherein such use may be conditionally permitted, and that all conditions for approval of Conditional Uses have been met. The Planning Commission shall give due regard to the nature and condition of all adjacent uses and structures and the consistency therewith of the proposed Conditional Use and any potential nuisances.
3. A public hearing shall be held by the Planning Commission in considering an application for a Conditional Use Permit. Notice shall be given not less than 10 days prior to the date of public hearing, both by posting notice on or near the parcel of land involved at places which will be conspicuous to the neighboring properties and to the public, and by publishing notice in a newspaper of general circulation. The failure of any person, other than the applicant, to receive notice of any hearing or public hearing shall in no way affect the validity of action taken.

B. Conditional Use Application

1. The total area in the development.
2. The existing zoning of the property in question and/or all adjacent properties.
3. All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated, or abandoned.
4. Existing topography with a maximum of 10 foot contour intervals.

5. The proposed finished grade of the development shown by contours not larger than five feet.
6. The locations of all existing and proposed buildings in the described parcels, the uses to be contained therein and the total number of buildings including dimensions, heights, gross floor area and number of stories.
7. Location and dimension of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, angles of stalls, grades, surfacing materials, drainage plans, and illumination of facilities.
8. All sidewalks and other open areas.
9. Location of all walls, fences, and buffer yards.
10. Location, size, height, colors, typeset, materials, lighting, and orientation of all signs.
11. Location of all existing proposed streets, highways, and alleys.
12. All existing and proposed water and sanitary sewer lines indicating pipe sizes, types, and grades.
13. The schedule of phasing of the project.
14. Such other information as required by the Planning Commission to determine the conformance with this Code.

C. Standards for Conditional Use

The Commission shall not grant a Conditional Use unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:

1. The proposed Conditional Use will comply with all applicable regulations of this Code, including lot size requirements, development standards and use limitations, except that variances may be granted as allowed by this Code.
2. Adequate utility, drainage and other such necessary facilities have been or will be provided.
3. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion to public streets and alleys.
4. All necessary permits and licenses for the use and operation of the

Conditional Use have been obtained, or evidence has been submitted that such permits and licenses are obtainable for the proposed Conditional Use on the subject property.

5. All exterior lights for artificial open-air illuminations are so shaded as to avoid casting direct light upon any property located in a residential district.
6. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets given access to it, shall be in harmony with the appropriate and orderly development of the district in which it is located.
7. The location, nature, and height of buildings, structures, walls, and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings, and structures.
8. Evidence that the Conditional Use desired will not adversely affect the public health, safety, and morals.

D. Conditions and Restrictions

In granting a Conditional Use Permit, the Commission may impose such conditions, safeguards and restrictions upon the premises benefited by the Conditional Use as may be necessary to comply with the standards set out in this Chapter to reduce or minimize potentially injurious effects of such Conditional Uses upon other property in the neighborhood, and to carry out the general purpose and intent of this Code.

E. Period of Validity

A Conditional Use Permit granted by the Commission shall terminate at the end of one year from the date on which the Commission grants the Conditional Use, unless within the one year period a building permit is obtained, and the erection or alteration of a structure is started and completed within two years from the commencement of the construction project.

10.4 Village Council

The powers and duties of the Village Council as they relate to the Zoning Code are as follows:

- A. Appoint a Building Commissioner to administer and enforce the provisions of these Regulations.

- B. Appoint a five-member Board of Zoning Appeals in accordance with the Ohio Revised Code, Chapter 713, to hear administrative appeals and requests for variances.
- C. Initiate or act upon suggested amendments to the Zoning Regulations or the Official Zoning District Map following the recommendations of the Village Planning Commission.
- D. Elect one of its own members to the Planning Commission.
- E. Determine fees for permits, application review and violations. These fees shall be utilized to help cover the expenses of the Building Commissioner, the Planning Commission, and the Board of Zoning Appeals.
- F. Provide for maintaining and keeping current the permanent records required by these regulations, including but not limited to the Official Zoning District Map, Zoning Certificates, inspections, and all official zoning actions of the Village Council. Such records shall be made available for use by the Village Council, Planning Commission, Board of Zoning Appeals, and the public.
- G. Hear and decide appeals of decisions of the Planning Commission regarding applications for site plan review.

10.5 Text Amendments and Changes of Zoning District

All amendments to the Zoning Code or changes of zoning districts on the Official Zoning District Map shall be made in accordance with the provisions in the Ohio Revised Code, Chapter 713. In addition, any property owner within 300 feet of the subject property shall be notified of the amendment application and time of any public hearings. The applicant shall provide the names and mailing addresses of the property owners.

The Village Planning Commission and Village Council shall favorably consider an application for a text amendment, whether to the Zoning Regulation text or to the Official Zoning District Map, only if the request for a change of zoning meets the following conditions:

- A. Manifest error in the original Zoning Regulation text and/or designations on the Official Zoning District Map.
- B. Accordance with, or more appropriate conformance to, the Village Land Use Plan.
- C. Substantial change in area conditions.
- D. Legitimate requirement for additional land area for the particular zoning district.

Where the Zoning District Map is amended, the Village Planning Commission and the Village Council shall not approve any petition which results in a total landholding

(excluding the area in roads and highways) containing less acreage than the minimums specified for each zoning district.

10.6 Site Plan Review

Site plan review shall be as follows:

A. Applicability

This section shall apply to new property development and any collective substantial expansion of existing structures, except for individual single family and two-family dwellings and parking lots of five spaces or smaller. Substantial expansion of existing structures shall be defined as an increase of the existing structure by 20 percent or more. No building shall be erected or structurally altered on any lot or parcel in zones where a site plan is required, except in accordance with the regulations of this section and an approved site plan. No zoning certificate shall be issued prior to the approval of a site plan.

B. Contents of Site Plan

Before a permit is issued for construction, copies of a site plan at a scale no smaller than one inch to 100 feet shall be filed with the Building Commissioner setting forth, identifying, and locating the following:

1. The total area in the development.
2. The existing zoning of the property in question and/or all adjacent properties.
3. All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated, or abandoned.
4. Existing topography with a maximum of 10 foot contour intervals.
5. The proposed finished grade of the development shown by contours not larger than five feet.
6. The locations of all existing and proposed buildings in the described parcels, the uses to be contained therein and the total number of buildings including dimensions, heights, gross floor area, and number of stories.
7. Location and dimension of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, angles of stalls, grades, surfacing materials, drainage plans, and illumination of facilities.
8. All sidewalks and other open areas.

9. Location of all walls, fences, and buffer yards.
10. Location, size, height, colors, typeset, materials, lighting, and orientation of all signs.
11. Location of all existing proposed streets, highways, and alleys.
12. Location of any outdoor storage and display areas.
13. All existing and proposed water and sanitary sewer lines indicating pipe sizes, types, and grades.
14. The schedule or phasing of the project.
15. A lighting plan, including a photometric plan and proposed lighting fixture types, styles, and mounting heights.
16. A landscape plan.
17. A storm water management plan.
18. A traffic study may be requested by the Planning Commission, Village Engineer, or Building Commissioner.
19. Such other information as required by the Planning Commission to determine the conformance with this Code.

C. Site Plan Review Guidelines

The following principles shall guide the exercise of site planning review by the Planning Commission:

1. The natural topographic and landscape features of the site shall be incorporated into the plan and the development.
2. Buildings and open spaces should be in proportion and in scale with existing structures and spaces in the area within 300 feet of the development site.
3. Sites that have an appearance of being congested, overbuilt, or cluttered should be avoided since they can evolve into a blighting influence.
4. Open spaces should be linked together.
5. Natural separation should be preserved or created on the site by careful planning of the streets and clustering of buildings using natural features and open spaces for separation. Existing vegetation removal should be minimal.

6. Screening of intensive uses should be provided by utilizing landscaping, fences, or walls to enclose internal areas.
7. Buildings should be sited in an orderly, non-random fashion. Long, unbroken building facades should be avoided.
8. The location of mid-rise and high-rise buildings should be oriented to maximize the privacy of the occupants of adjacent buildings.
9. Short loop streets, cul-de-sacs, and residential streets should be used for access to low-density residential land uses to provide a safer living environment and a stronger sense of neighborhood identity.
10. Street location and design shall conform to existing topographic characteristics. Cutting and filling shall be minimized in the construction of streets. Grades should be as flat as possible near intersections.
11. Pedestrian circulation in non-residential areas should be arranged so that off-street parking areas are located within a convenient walking distance of the use being served. Handicapped parking should be located as near as possible to be accessible to the structure. Pedestrian and vehicular circulation should be separated as much as possible, through crosswalks designated by pavement markings, signalization, or complete grade separation.
12. Path and sidewalk street crossings should be located where there is a good sight distance along the road, preferably away from sharp bends or sudden changes in grade.
13. Parking lots and garages should be located to provide safe, convenient ingress and egress. Whenever possible, curb cuts should be shared by more than one facility. Parking areas should be screened and landscaped, and traffic islands should be provided to protect circulating vehicles and to break up the monotony of continuously paved areas.
14. Drive-through establishments, such as restaurants and banks, should be located to allow enough automobile waiting space for peak hour operation without interference with other parking lot circulations.

D. Action by Planning Commission for Site Plan Review

Upon submission of the complete application for site plan review to the Building Commissioner, the application shall be transmitted to the Planning Commission where they shall review the site plan pursuant to this Section 10.6. No public notice or public hearing shall be required in conjunction with the review, the approval, approval with modifications or disapproval of the site plan. The Planning

Commission may approve, disapprove, or approve with modifications the site plan as submitted.

The Planning Commission shall act upon all site plans within 35 days after the receipt of the complete application from the Building Commissioner. Within the 35 day period, a majority of the members of the Planning Commission present at a meeting thereof may vote to extend the said period for a period of time not to exceed an additional 60 days.

E. Appeal of Planning Commission Decision for Site Plan Review

An appeal can be made to the Village Council regarding a decision by the Planning Commission regarding approval of a site plan review. An applicant or other aggrieved party may appeal to the Village Council to evaluate the decision of the Planning Commission as related to a site plan review application. Such appeal shall be filed with the Village Council by service on the Fiscal Officer within thirty days after the decision of the Planning Commission. The Council may uphold the decision of the Planning Commission, overturn the decision of the Planning Commission, or modify the decision of the Planning Commission.

10.7 Board of Zoning Appeals

A. Composition; Terms of Office

The Board of Zoning Appeals, hereinafter called the BZA, shall be appointed by the Village Council and shall consist of five members who are residents of the incorporated area of the Village. At least three members of the BZA shall not be members of the Planning Commission or Council. The members of the BZA shall serve a term of three years.

B. Quorum; Voting, Rules, and Regulations

1. A quorum for all meetings shall consist of a majority of the members of the BZA. A majority vote by the members present is required for approval of matters brought before the Board. A Chairperson, elected from the members of the Board, shall preside at the meetings.
2. The Board may adopt from time to time, such rules, and regulations as it may deem necessary to carry into effect the provisions of this Zoning Code.

C. Meetings and Records

Meetings of the BZA shall be held at the call of the chairperson and at such times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall keep written minutes of its proceedings, and shall keep records of all official actions, which shall be filed in the office of the Board and shall be a public record.

D. Powers and Duties

The BZA shall have the following powers:

1. Administrative Appeals: To hear and decide appeals where it is alleged there is an error in any interpretation, judgment, decision, or determination made by the Building Commissioner in the administration and enforcement of the provisions of these regulations.
2. Variances: To authorize such variances from the terms, provisions or requirements of this Zoning Code as will not be contrary to the public interest. Such variances shall be granted only when, owing to special and unusual conditions pertaining to a specific piece of property as described below, the literal enforcement of the provisions or requirements of this Zoning Code would result in practical difficulty or undue hardship, so that the spirit of the Zoning Code shall be upheld, public safety and welfare secured, and substantial justice done. Variances shall not be granted for uses not permitted in the zoning district applicable to the property.

E. Decisions of the BZA

Within the limits of the powers set forth in this Zoning Code, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination being appealed, and to that end shall have all the powers of the officer from whom the appeal is taken, and it may direct the issuance of a zoning permit.

Any decision by the Board of Zoning Appeals requires the concurrence of a majority of the members present for the vote. The Board shall render a decision on the appeal within 30 days from the date of the hearing unless an extended period of time is mutually agreed upon by the applicant and the Board.

The Board of Zoning Appeals shall notify the appellant in writing of the decision of the Board, which shall include the reasons for the action taken.

F. Appeals

Appeals to the Board of Zoning Appeals may be taken by any person, firm, or corporation, deeming himself or itself to be adversely affected by a decision of the Building Commissioner or the Planning Commission.

1. Initiation of Appeal

- a. Applications for appeal shall be filed with the Building Commissioner and with the Board of Zoning Appeals within thirty

(30) days after the date of any adverse order, requirement, decision, or determination.

- b. The application for appeal shall include reference to the decision and the provision of this Zoning Code from which the appeal is sought.
- c. The application for appeal shall also contain a detailed written description of the alleged error and may include supporting documentation including, but not limited to, photographs, maps, site plans, drawings, correspondence, and any other materials deemed to be relevant to the alleged error.
- d. The Building Commissioner shall transmit to the Board of Zoning Appeals all papers constituting the record upon which the action being appealed was taken. Failure to submit the administrative appeal within the twenty-day period shall forfeit the applicant's right from seeking an administrative appeal under this section.

2. Proceedings Stayed

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Commissioner certifies to the Board of Zoning Appeals after the notice of the appeal has been filed, that by reason of facts stated in the permit, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed by other than a restraining order granted by a court having appropriate jurisdiction.

3. Public Hearings by the Board

When an application for appeal has been filed in the proper form with the Board of Zoning Appeals and the application fee has been paid, the Building Commissioner shall place the request upon the calendar for public hearing before the Board of Zoning Appeals and give not less than twenty (20) days public notice thereof in a newspaper of general circulation in the Village. Notice of such public hearings shall be given by first class mail to the parties making the request for the appeal and to all property owners within 300 feet of the property to which such appeal relates. When notice is required to be given to parties and affected property owners, such notification shall be sent to the names and addresses of such owners appearing on the Hamilton County Auditor's current tax list. If the address appearing on the tax list is that of a lending institution or other person or entity clearly recognizable as not being the owner, then written notice shall be mailed to such institution, person, or entity at the listed address and to the named owners at the street address of the property. Failure of delivery of such notice shall not invalidate action taken on such application. Any party may appear at the hearing in person or by agent or attorney.

4. Fee

The filing fee, as adopted by municipal ordinance, shall be paid to the Village at the time the Notice of Appeal is filed. No action shall be taken on any appeal until all applicable fees are paid.

G. Variances

Where there are exceptional or extraordinary circumstances or conditions such that the literal enforcement of this Zoning Code would involve practical difficulty, or would cause unnecessary hardship, unnecessary to carry out the spirit and purpose of this chapter, the BZA shall have power to relieve such hardship. In authorizing a variance, the BZA may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use it as it may deem necessary in the interest of the furtherance of the purpose of the chapter and in the public interest. In authorizing a variance, with attached conditions, the BZA shall require such evidence and guarantee or bond as it may deem to be necessary, to enforce compliance with the conditions attached. Variances shall not be granted for uses not permitted in the zoning district applicable to the property.

1. Standard

No such variance of the provisions or requirements of this Zoning Code shall be authorized by the BZA unless the BZA finds that any of the following facts and conditions exist:

- a. Exceptional Circumstances: Where, by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of this Zoning Code, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property, that do not apply generally to other properties or classes of uses on the same zoning district.
- b. Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights which are possessed by other properties in the same zoning district and in the same vicinity.
- c. Absence of Detriment: That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this Zoning Code or the public

interest.

- d. Not of General Nature: That the condition or situation of the subject property, or the intended use of the property, for which variance is sought, is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulations for such conditions or situation.

2. Application for Appeal or Variance

An application for an Appeal or Variance shall contain the following information:

- a. Name, address, and telephone number of the applicant.
- b. A brief narrative description of the existing use of the property.
- c. Statement of location of the property (subdivision, township, range, section number, lot number).
- d. A statement indicating the zoning of the property.
- e. A brief narrative description of the proposed appeal or variance being requested, citing the section of the Zoning Code from which the appeal or variance is being requested.
- f. A plan, drawn at an appropriate scale, showing the location of the property, indicating all existing and proposed structures and lot lines, locations of the nearest public rights-of-way, location of all existing or proposed access points to the site, locations of any existing or proposed easements, and locations of any existing or proposed parking areas and driveways, showing intent to comply with all parking requirements specified by these regulations.
- g. Such other information as may be required by the BZA.
- h. Names and mailing addresses of owners of property adjacent to the subject property as recorded by the Hamilton County Auditor's Office.

3. Public Hearing by the Board

When an application for a variance has been filed in the proper form with the Board of Zoning Appeals and the application fee has been paid, the Building Commissioner shall place the request upon the calendar for public hearing before the Board of Zoning Appeals and give not less than 30 days public notice thereof in a newspaper of general circulation in the Village.

Notice of such public hearings shall be given by first class mail to the parties making the request for the variance and to all property owners within 300 feet of the property to which such variance relates. When notice is required to be given to parties and affected property owners, such notification shall be sent to the names and addresses of such owners appearing on the Hamilton County Auditor's current tax list. If the address appearing on the tax list is that of a lending institution or other person or entity clearly recognizable as not being the owner, then written notice shall be mailed to such institution, person, or entity at the listed address and to the named owners at the street address of the property. Failure of delivery of such notice shall not invalidate action taken on such application. Any party may appear at the hearing in person or by agent or attorney.

4. Fee

The filing fee, as adopted by municipal ordinance, shall be paid to the Village at the time the application for variance is filed. No action shall be taken on any application until all applicable fees are paid.

- H. Appeals from a decision of the Village of Newtown Board of Zoning Appeals shall be reviewed by the Court of Common Pleas of Hamilton County, Ohio in accordance with Chapters 2505 and 2506, as applicable, of the Ohio Revised Code.

10.8 Zoning Certificates

No person shall locate, erect, construct, reconstruct, enlarge, or structurally alter any building or structure within the Village without obtaining a Zoning Certificate. No Zoning Certificate shall be issued unless the plans for the proposed building or structure fully comply with all the provisions of these regulations.

Application for a Zoning Certificate shall be made in writing to the Building Commissioner, or secretary of the Village Planning Commission. Each written application shall include the following:

- A. Three copies of a scale drawing showing the actual shape and dimensions of the lot to be built upon, or to be changed in its use, in whole or in part;
- B. The location of the lot, existing zoning, and existing land use, including the immediately surrounding area;
- C. The location, size and height of any building or structure to be erected or altered;
- D. The existing or intended use of each building, structure, or use of land where no buildings are included;
- E. The number of families or dwelling units each building is designed to accommodate, if applicable.

If a Zoning Certificate is issued for the purpose of constructing a new building or structure and such construction is not begun within a 12 month period, then said Zoning Certificate shall be considered null and void. If construction is not completed within 18 months from the issuance of a building permit, the Building Commissioner shall issue a notice to the owner that an explanation of the completion schedule for the project is required.

CHAPTER 11 ENFORCEMENT

11.0 Enforcement by Village Building Commissioner

The Building Commissioner shall administer and enforce this Code in accordance with the provisions of this Chapter. All departments, officials, and public employees of the Village vested with the duty and authority to issue permits or licenses shall conform to the provisions of this Chapter.

11.1 Revocation of Zoning Certificate

Any Zoning Certificate issued upon a false statement shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Village Council, the Zoning Certificate shall be revoked by notice in writing to be delivered to the holder of the void Certificate upon the premises concerned, or in some conspicuous place upon the said premises. Any person who shall proceed thereafter with such work or use without having obtained a new Zoning Certificate, in accordance with these regulations, shall be deemed guilty of a violation.

11.2 Schedule of Fees

The Village Council shall establish a schedule of fees for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals, and other procedures and services pertaining to the administration and enforcement of this Code, after considering the recommendations of the Building Commissioner with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be posted in the office of the Building Commissioner and may be altered or amended only by the Village Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

CHAPTER 12 VIOLATION AND REMEDIES

12.0 Violation

For any building that is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land that is proposed to be used in violation of this Code or any amendment or supplement thereto, the Village Council, the Village Solicitor, the Building Commissioner, or any adjacent or neighboring property owner who would be specifically damaged by such violation may initiate appropriate action to prevent such activity from proceeding in violation to this Code.

12.1 Notice of Violation

Whenever the Building Commissioner determines that there is a violation of any provision of this Zoning Code, a notice of such violation shall be issued. Such notice shall identify the violation in writing, state the reason(s) for issuance and refer to the section of this Zoning Code being violated, state the time by which the violation shall be corrected, and contain a statement of right of appeal or to request variance.

A. Service of notice of the violation shall be as follows:

1. By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of 16 years or older; or
2. By Certified Mail, and first class mail simultaneously, addressed to the person or persons responsible at a last known address. Service shall be deemed complete when the fact of the mailing is entered of record, provided that the first class mail envelope is not returned by the Postal Authorities with an endorsement showing failure of delivery; or
3. By posting a copy of the notice form in a conspicuous place on the premises found in violation.

B. Right of appeal shall be as follows:

1. Any party with standing may appeal any decision of the Building Commissioner to the Board of Zoning Appeals within 30 days of issuance of the decision.

12.2 Remedies

No person shall fail or refuse to comply with an order issued by the Building Commissioner. A separate offense shall be deemed committed each day upon which a violation occurs or continues. No person shall construct, modify, alter, use, or occupy any structure or property in violation of the Newtown Zoning Code. A separate offense shall be deemed committed each day upon which a violation occurs or continues.

- A. Penalties: Anyone who violates this section is guilty of a minor misdemeanor for each offense. If within one year of the date of the offense the offender has been convicted of or pleads guilty to another violation of Section 90.2, the offender is guilty of a misdemeanor of the third degree.

- B. Civil Remedies: The Village of Newtown, the Village Council on behalf of the Village of Newtown or any officer designated by the Village Council on behalf of the Village of Newtown may, in addition to the criminal remedies provided in this Zoning Code, file suit for injunction against any violation of this Zoning Code, or if the violation has caused damages to the Village of Newtown for a judgment for damages and any person, property owner or occupant of property who can show that the person, property owner or occupant of property has suffered harm or whose property has suffered harm as a result of violations of this Zoning Code may file suit for injunction or damages to the fullest extent provided by the law.

- C. Revocation of Zoning Certificate: In addition to the remedies provided above, any Zoning Certificate is subject to revocation by the Building Commissioner for failure to comply with any of the requirements of this Zoning Code, failure to comply with any conditions or requirements of approval granted under this Zoning Code, or failure to bring the property into compliance with any order of the Building Commissioner.