

New Madison – Zoning Regulation

TABLE OF CONTENTS

ARTICLE 1: TITLE AND PURPOSE	1
SECTION 100 PURPOSE	1
SECTION 101 ENACTING CLAUSE	2
SECTION 102 TITLE	2
SECTION 103 INTERPRETATION AND CORRELATION OF STANDARDS.....	2
SECTION 104 REGULATIONS NOT RETROACTIVE	2
 ARTICLE 2: CONSTRUCTION OF LANGUAGE AND DEFINITONS.....	 3
 ARTICLE 3: ZONING DISTRICTS, BOUNDARIES, AND MAPS	 34
SECTION 300 DISTRICTS ESTABLISHED	34
SECTION 301 BOUNDARIES	34
SECTION 302 DISTRICT REQUIREMENTS	35
SECTION 303 ZONING OF NEWLY ANNEXED LAND	35
 ARTICLE 4: GENERAL PROVISIONS.....	 36
SECTION 400 FENCES	36
SECTION 401 ACCESSORY STRUCTURES	36
SECTION 402 REMOVAL OF SOIL, SAND, OR OTHER MATERIAL	37
SECTION 403 ESSENTIAL SERVICES	37
SECTION 404 EXTERNAL EFFECTS	38
SECTION 405 OUTDOOR STORAGE & WASTE DISPOSAL.....	38
SECTION 406 PROJECTIONS INTO REQUIRED YARDS	38
SECTION 407 EXCEPTIONS TO HEIGHT LIMITATIONS	39
SECTION 408 TEMPORARY USES.....	39
SECTION 409 MAJOR STREET SETBACKS.....	40
SECTION 410 OFF-STREET LOADING REGULATIONS	40
SECTION 411 OFF-STREET PARKING	41
SECTION 412 SCREENING.....	43
SECTION 413 TRAILERS	44
SECTION 414 DRIVE-IN SERVICE ESTABLISHMENTS	44
SECTION 415 BARRIERS TO ENCROACHMENT	45
SECTION 416 CELLULAR/PERSONAL WIRELESS SERVICE SITES	45
SECTION 417 HOME OCCUPATIONS	47
SECTION 418 ADULT ENTERTAINMENT FACILITIES.....	48
 ARTICLE 5: "A" AGRICULTURAL RESIDENTIAL DISTRICT.....	 50
SECTION 500 INTENT.....	50
SECTION 501 PRINCIPAL PERMITTED USES	50
SECTION 502 CONDITIONAL USE	50
SECTION 503 ACCESSORY USES.....	52
SECTION 504 DEVELOPMENT STANDARDS.....	52

ARTICLE 6: "R-1" AND "R-2" SINGLE-FAMILY RESIDENTIAL DISTRICT	54
SECTION 600 INTENT.....	54
SECTION 601 PRINCIPAL PERMITTED USES	54
SECTION 602 CONDITIONAL USE	54
SECTION 603 ACCESSORY USES.....	55
SECTION 604 DEVELOPMENT STANDARDS.....	57
ARTICLE 7: "R-3" MOBILE HOME RESIDENTIAL DISTRICT	58
SECTION 700 INTENT.....	58
SECTION 701 PRINCIPAL PERMITTED USES	58
SECTION 702 ACCESSORY USES.....	58
SECTION 703 DEVELOPMENT STANDARDS.....	58
ARTICLE 8: "B-1" NEIGHBORHOOD BUSINESS DISTRICT	60
SECTION 800 INTENT.....	60
SECTION 801 PRINCIPAL PERMITTED USES	60
SECTION 802 ACCESSORY USES.....	60
SECTION 803 REQUIRED CONDITIONS.....	60
SECTION 804 DEVELOPMENT STANDARDS.....	62
ARTICLE 9: "B-2" CENTRAL/HIGHWAY BUSINESS DISTRICT	63
SECTION 900 INTENT.....	63
SECTION 901 PRINCIPAL PERMITTED USES	63
SECTION 902 CONDITIONAL USES	63
SECTION 903 ACCESSORY USES.....	64
SECTION 904 REQUIRED CONDITIONS.....	64
SECTION 905 DEVELOPMENT STANDARDS.....	66
ARTICLE 10: "I-1" LIGHT- INDUSTRIAL DISTRICT	67
SECTION 1000 INTENT.....	67
SECTION 1001 PRINCIPAL PERMITTED USES	67
SECTION 1002 CONDITIONAL USES	68
SECTION 1003 ACCESSORY USES.....	69
SECTION 1004 REQUIRED CONDITIONS.....	69
SECTION 1005 DEVELOPMENT STANDARDS.....	71
ARTICLE 11: "PURD" PLANNED UNIT RESIDENTIAL DEVELOPMENT DISTRICT.....	73
SECTION 1100 INTENT.....	73
SECTION 1101 PRINCIPAL PERMITTED USE.....	73
SECTION 1102 GENERAL STANDARDS FOR PLANNED DEVELOPMENTS	74
SECTION 1103 DEVELOPMENT STANDARDS.....	74
SECTION 1104 PROCEDURE	76
ARTICLE 12: EXISTING AND NON-CONFORMING USES.....	80
SECTION 1200 CONFORMANCE REQUIRED	80
SECTION 1201 NON-CONFORMING VACANT LOTS.....	80
SECTION 1202 NON-CONFORMING STRUCTURES	81

ARTICLE 13: SIGNS	85
SECTION 1300 GENERAL PROVISIONS	85
SECTION 1301 EXEMPTED SIGNS	85
SECTION 1302 PROHIBITED SIGNS	86
SECTION 1303 TRAFFIC HAZARDS	86
SECTION 1304 RESPONSIBILITY, MAINTENANCE, AND REMOVAL	86
SECTION 1305 NON-CONFORMING	87
SECTION 1306 SIGNS NEAR "R" DISTRICTS	87
SECTION 1307 SIGNS IN AGRICULTURAL, RESIDENTIAL, AND "PURD" DISTRICTS	87
SECTION 1308 SIGNS IN BUSINESS AND INDUSTRIAL DISTRICTS	88
ARTICLE 14: ENFORCEMENT PENALTIES	89
SECTION 1400 ENFORCEMENT BY THE ZONING INSPECTOR	89
SECTION 1401 ZONING CERTIFICATES	89
SECTION 1402 VIOLATIONS - REMEDIES	90
SECTION 1403 VIOLATIONS AND PENALTIES	90
SECTION 1404 FEES	91
ARTICLE 15: VILLAGE PLANNING COMMISSION, DISTRICT CHANGES, AND REGULATION AMENDMENTS	92
SECTION 1500 VILLAGE PLANNING COMMISSION	92
SECTION 1501 DISTRICT CHANGES AND REGULATION AMENDMENTS	92
ARTICLE 16: BOARD OF ZONING APPEALS	95
SECTION 1600 APPOINTMENT	95
SECTION 1601 ORGANIZATION	95
SECTION 1602 JURISDICTION	96
SECTION 1603 PROCEDURE FOR ADMINISTRATIVE APPEAL	97
SECTION 1604 PROCEDURE FOR OBTAINING A VARIANCE	98
SECTION 1605 PROCEDURE FOR OBTAINING A CONDITIONAL USE CERTIFICATE	100
ARTICLE 17: WHEN EFFECTIVE: VALIDITY	104
SECTION 1700 WHEN EFFECTIVE	104
SECTION 1701 VALIDITY	104

ARTICLE 1

TITLE AND PURPOSE

SECTION 100 PURPOSE

An Ordinance establishing Comprehensive Zoning Regulations for New Madison, Ohio and providing for the Administration, Enforcement, and Amendment thereof, in accordance with the provisions of *Chapter 713*, Ohio Revised Code.

Whereas *Chapter 713*, Ohio Revised Code, empowers the Municipalities to enact a Zoning Regulation and to provide for its administration, enforcement, and amendment, and

Whereas, the Village Council deems it necessary for the purpose of promoting the health, safety, morals, and general welfare of the Village to enact such a Regulation, and

Whereas, the Council pursuant to the provision of *Chapter 713*, Ohio Revised Code, has appointed a Planning Commission to recommend the boundaries of the various districts and appropriate regulations to be enforced therein, and

Whereas, the Planning Commission has divided the Village into Districts and has prepared regulations pertaining to such districts in order to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid the undue concentration of population; to facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public requirements, and

Whereas, the Planning Commission has given reasonable consideration among other things to the character of the districts and their particular suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Village, and

Whereas, the Planning Commission and Village Council have given due public notice of hearings relating to zoning districts, regulations, restrictions, and has held such public hearings, and

Whereas, all requirements of *Chapter 713*, Ohio Revised Code have been met.

SECTION 101 ENACTING CLAUSE

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE VILLAGE OF NEW MADISON, COUNTY OF DARKE, STATE OF OHIO, ALL THAT FOLLOWS HEREIN:

SECTION 102 TITLE

This Ordinance shall be known and may be cited as the New Madison Zoning Regulation.

SECTION 103 INTERPRETATION AND CORRELATION OF STANDARDS

In their interpretation and application, the provisions of this Zoning Regulation shall be held to be minimum requirements. Whenever the requirements of this Regulation varies with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive, or that imposing the highest standards, shall govern.

SECTION 104 REGULATIONS NOT RETROACTIVE

Except as otherwise specified in these Regulations, any use, lot, building, or structure that exists as of the enactment date of these Regulations, or any amendment thereof, may be continued even though such use, lot, building, or structure may not conform to the provisions of the Zoning District where it is located. The provisions for non-conforming uses shall apply.

ARTICLE 2

CONSTRUCTION OF LANGUAGE AND DEFINITONS

SECTION 200 CONSTRUCTION OF LANGUAGE

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Resolution and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future tense; the singular number shall include the plural; and the plural number shall include the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure," includes any part thereof.
- F. The words "used" or "occupied" include the words "intended," "designed", "arranged," or "maintained".
- G. The word "person" includes an individual, firm, association, organization, partnership, trust, company, or any other similar entity.
- H. The word "lot" includes the words "plot" or "parcel".
- I. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either...or", the conjunction shall be interpreted as follows:
 - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - 2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - 3. "Either...or" indicates that the connected item, conditions, provisions, or events shall apply singly but not in combination.
- J. Terms not herein defined shall have the meaning customarily assigned to them.

SECTION 201 DEFINITIONS (beginning with the letter “A”)

201.01 ACCESSORY BUILDING OR STRUCTURE

A subordinate building or structure, which is detached from but located on the same lot as a principal building, that is permanent in nature and has a foundation. The use of an accessory building or structure must be identical and accessory to the use of the principal building. Examples of accessory structures include but are not limited to the following: children’s playhouses, garden or utility sheds, detached garages, and greenhouses; swimming pools are not considered accessory buildings or structures and are regulated accordingly.

201.02 ACCESSORY USE

Any purpose for which a building, structure, or a tract of land may be designed, arranged, intended, maintained, or occupied which:

- A. Is customarily incidental and subordinate in area, extent, or purpose to the principal building, structure, or use which it serves, and
- B. Is located on the same zoning lot as the principal building, structure, or use, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot.

201.03 ADULT ENTERTAINMENT FACILITIES

A. Means having a significant portion of its function as adult entertainment, which includes the following listed categories:

- 1. Adult Book and Video Store

An establishment having as a significant portion of its stock in trade, books, videos, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to "specified sexual activities" or "specialized anatomical areas", as herein defined.

- 2. Adult Entertainment Business

Any establishment involved in the sale of services or products characterized by the exposure or presentation of "Specified Anatomical Areas" or physical contact of live males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of the adult entertainment businesses are photography, dancing, reading,

massage, and similar functions which utilize activities as specified above.

3. Adult Motion Picture Theater

A facility used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", for observation by patrons therein.

4. Adult Paraphernalia Store

An establishment having as a significant portion of its stock in trade, mechanical and/or non-mechanical devices which are distinguished or characterized by their intended use for sexual arousal and/or massage of "specific anatomical areas", as herein defined.

5. Massage Establishments

Any establishment having a fixed place of business where massages are administered for pay. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, massage therapist duly licensed by the state of Ohio, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulder.

B. Related definitions:

1. "Massage" means a method of treating or stimulating the external parts of the human body by rubbing, stroking, kneading, tapping, touching, or vibrating with the hand or any instrument for pay.
2. "Specified Sexual Activities" means:
 - a. Human genitals in a state of sexual stimulation or arousal;
 - b. Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio;
 - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.
3. "Specified Anatomical Areas" means:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola;

- b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

201.04 AGRICULTURE

The use of a tract of land for growing crops in the open, dairying, pasturage, horticulture, floriculture, and structures necessary for carrying out farming operations and the residence of the person who owns or operates the farm, and the family thereof; provided, however, such agricultural use shall not include the following uses:

- A. The maintenance and operation of commercial greenhouses or hydroponics forms, except in zoning districts in which such uses are expressly permitted.
- B. Wholesale, or retail sales as accessory use, unless the same are specifically permitted by this Regulation.
- C. The feeding or sheltering of animals or poultry in penned enclosures or buildings within three-hundred (300) feet of any residential zoning district. Agriculture does not include the feeding of garbage to animals, or the operation or maintenance of a feedlot.

201.05 ALLEY

A dedicated public right-of-way, other than a street, that affords a secondary means of access to abutting property.

201.06 AUTOMOBILE OR TRAILER SALES AREA

An open area, 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.

201.07 AUTOMOBILE SERVICE STATION

A structure and surrounding land used for the storage and sale of petroleum fuel, primarily to passenger vehicles, and for accessory uses such as the sale and installation of lubricants, accessories, or supplies; the incidental washing of motor vehicles and the performing of tune-ups, tire and brake changing, and repair.

201.08 AUTOMOBILE WRECKING

The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, non-operating, or wrecked vehicles of their parts.

SECTION 202 DEFINITIONS (beginning with the letter "B")

202.01 BASEMENT

That portion of a building located partly underground but having more than one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

202.02 BOARD

The Board of Zoning Appeals of New Madison shall have the following jurisdiction: to hear and decide appeals, to authorize variances, to grant conditional use certificates, and to regulate non-conforming uses. See ARTICLE 16 - BOARD OF ZONING APPEALS.

202.03 BUILDING

Any covered structure, either temporary or permanent, having a room supported by columns or walls and intended for the shelter or enclosure of persons, animals, chattels, or moveable property of any kind.

202.04 BUILDING HEIGHT

The vertical distance from the average grade to the highest roof or to the deck line of a mansard roof; or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

202.05 BUILDING LINE

A line parallel to the street right-of-way at any story level of a building and representing the distance of which all or any part of the building is to be set back from said right-of way.

202.06 BUSINESS

Any lawful commercial endeavor to engage in the manufacturing, purchase, sale, lease, or exchange of goods and/or the provision of services.

SECTION 203 DEFINITIONS (beginning with the letter “C”)

203.01 COMMISSION

The New Madison Planning Commission of Darke County, Ohio shall be responsible for district changes and ordinance amendments and shall be composed of five (5) members to include the Mayor, one member of Council, and three citizens of the village. See ARTICLE - 15 VILLAGE PLANNING COMMISSION.

203.02 CONDITIONAL USE

A use or occupancy of a structure, or a use of land, permitted only upon issuance of a conditional use permit and subject to the limitations and conditions specified therein.

203.03 CONDITIONAL USE CERTIFICATE

A permit issued by the planning commission stating that the conditional use complies with the conditions and standards set forth in this title and authorized by the planning commission.

SECTION 204 DEFINITIONS (beginning with the letter "D")

204.01 DEVELOPMENT

Any human-caused change to improved or unimproved real estate that requires a permit or approval from any agency of the municipality/village or county, including but not limited to, buildings or other structures, mining, dredging, filing, grading, paving, excavation or drilling operations, and storage of materials.

204.02 DISTRICT

A portion of the territory of New Madison within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Zoning Regulation.

204.03 DRIVE-IN

An establishment accommodating the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed.

204.04 DWELLING

Any building or portion thereof occupied or intended to be occupied exclusively for residential purposes, but not including a tent, cabin, trailer, or trailer coach or other temporary or transient structure or facility.

A. Single Family Dwelling:

A building occupied, or constructed to be occupied, exclusively for residential purposes by one family or housekeeping unit.

B. Two Family Dwelling:

A building occupied, or constructed to be occupied, exclusively by not more than two (2) families or housekeeping units.

C. Multiple Family Dwelling:

A building or portion thereof occupied, or constructed to be occupied, by three (3) or more families or housekeeping units.

204.05 DWELLING UNITS

One room, or a suite of two (2) or more rooms, designed for or used by one family or housekeeping unit for living and sleeping purposes and which includes permanently installed cooking and lawfully required sanitary facilities.

SECTION 205 DEFINITIONS (beginning with the letter "E")

205.01 EASEMENT

Authorization by a property owner for the use by another, and for a specified purpose, of a designated part of his or her property.

205.02 ESSENTIAL SERVICE

The location, erection, construction, re-construction, change, alteration, maintenance, removal, use or enlargement by public utilities or County or other governmental agencies of underground or overhead gas, electrical, steam or water generation, transmission or distribution systems; including buildings, structures, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment or accessories and the use of land in connection therewith, for the furnishing of adequate service by such public utilities or County or other governmental agencies or for the public health, safety and morals.

SECTION 206 DEFINITIONS (beginning with the letter "F")

206.01 FAMILY

A person living alone, or two or more persons living together as a single housekeeping unit, in a dwelling unit, but not including a group occupying a boarding house, lodging house or motel, fraternity or sorority.

206.02 FEED LOT

A lot, or building, or combination of lots and buildings intended for the confined breeding, raising, or holding of animals, primarily for the purposes of feeding and growth prior to slaughter, where manure may accumulate and where the vegetative cover cannot be maintained within the enclosure. Open lots used for feeding and rearing of poultry and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and zoos, shall be considered to be animal feed lots. Pastures shall not be considered animal feed lots.

206.03 FENCE

An enclosure or barrier, such as wooden posts, wire, iron, etc. used as a boundary, means of protection, privacy, screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

206.04 FLOOR AREA (GROSS)

The sum of the gross horizontal area of all the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. Floor area shall include the area of basements when used for residential, commercial, or industrial purposes, but shall not include a basement or portion of a basement used for storage or the housing of mechanical or central heating equipment. In calculating floor area, the following shall not be included:

- A. Attic space providing structural headroom of less than seven (7) feet, six (6) inches.
- B. Uncovered steps.
- C. Terraces, breezeways and open porches.
- D. Automobile parking space in a basement or private garage.

SECTION 207 DEFINITIONS (beginning with the letter “G”)

207.01 GARBAGE

Garbage shall be interpreted to mean all putrescible wastes including vegetable, animal offal, and carcasses of small dead animals; but does not include human excreta, sewage and other water carried wastes.

207.02 GRADE

The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

207.03 GREENBELT

A strip of land parallel to and extending inwardly from the lot lines or right-of-way lines. Said greenbelt shall be maintained at all times in grass, trees, shrubs, or plantings; and no structures, parking areas, or signs shall be permitted.

SECTION 208 DEFINITIONS (beginning with the letter "H")

208.01 HOME OCCUPATION

An occupation conducted in a dwelling unit, provided that:

- A. Only one person other than members of the family residing on the premises shall be engaged in such occupation.
- B. 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 twenty-five percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one nameplate sign, not exceeding two square feet in area and non-illuminated.
- D. No home occupation shall be conducted in any accessory building.
- E. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood.
- F. No equipment or process shall be used in such home occupation which creates noise, fumes, vibrations, glares, odors, or electrical interference detectable to the normal senses at or beyond the lot line.
- G. No more than two (2) vehicles in addition to those registered at that address shall be present at any time.
- H. There shall be no exterior storage of business equipment, materials, merchandise, inventory, or heavy equipment.
- I. Physicians, surgeons, dentists, dance instructors, banks, instrument instruction in groups, tea rooms, bed and breakfast lodging houses, beauty parlors, barber shops, nursing homes, funeral homes and stores, trade, or businesses of any kind not herein excepted shall not be deemed to be home occupations.

208.02 HOUSEKEEPING UNIT

One or more persons living in a dwelling who are not a family.

SECTION 209 DEFINITIONS (beginning with the letter "I")

209.01 INDUSTRY

The manufacture, fabrication, processing, reduction, or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change to form, character, or appearance thereof, and includes storage elevators, truck storage yards, warehouses, wholesale storage, and other similar types of enterprise.

SECTION 210 DEFINITIONS (beginning with the letter “J”)

210.01 JUNK

Old or scrap copper, brass, rope, rags, batteries, paper, rubber; junked, dismantled or wrecked automobiles or parts thereof; iron, steel, and other old or scrap ferrous or non-ferrous materials which are not held for sale or re-melting purposes by an establishment having facilities for processing such materials.

210.02 JUNK YARD

An establishment or place of business (other than an establishment having facilities for processing iron, steel, or non-ferrous scrap and whose principal product is scrap iron and steel or non-ferrous scrap for re-melting purposes), which is maintained or operated for the purpose of storing, keeping, buying, or selling junk; or for the maintenance or operation of an automobile graveyard, except an establishment or place where automobiles, wrecked or otherwise, are held or impounded for a period not to exceed ninety (90) days exclusively for storage, repair, or resale without alteration. Any site on which are kept two or more inoperative or unlicensed vehicles shall be considered a junk yard.

SECTION 211 DEFINITIONS (beginning with the letter “K”)

211.01 KENNEL OR ANIMAL SHELTER

Any structure or runway in which dogs or other small animals are kept for compensation or sale. Any place where four or more dogs, cats, or other animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed.

SECTION 212 DEFINITIONS (beginning with the letter “L”)

212.01 LANDSCAPING

The modification of the landscape for an aesthetic or functional purpose. It includes the preservation of existing vegetation and the continued maintenance thereof together with grading and installation of minor structures and appurtenances.

212.02 LODGING HOUSE

A transient lodging establishment, generally in a single-family dwelling and/or detached guest houses, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

212.03 LOT

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and its accessory buildings and uses, including all open spaces required by this Zoning Resolution, and having frontage on a public street. The word "lot" includes the words "plot" or "parcel."

A. Corner

A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, and in either case forming an interior angle of one hundred thirty-five (135) degrees or less.

B. Double Frontage, Through Lot

A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

C. Interior

A lot other than a corner lot.

212.04 LOT AREA

The computed area contained within the lot lines.

212.05 LOT COVERAGE

That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

212.06 LOT FRONTAGE

The distance between the side lot lines, measured by a line drawn parallel with the front lot line at a point of required minimum front yard depth.

212.07 LOT LINES

A. Front

A street right-of-way line forming the boundary of a lot. On a corner lot, the street right-of-way line with the least amount of street frontage shall be the front lot line.

B. Rear

The lot line that is most distant from, and is, or is most nearly parallel to, the front lot line. If a rear lot line is less than fifteen (15) feet long, or, if the lot comes to a point at the rear, the rear lot line shall be a line at least fifteen (15) feet long, lying wholly within the lot, parallel to the front lot line.

C. Side

A lot line which is neither a front lot line nor a rear lot line. On a corner lot, the street right of-way lines with the greatest amount of street frontage shall be a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

212.08 LOT OF RECORD

A lot which is part of a subdivision, the plot of which has been recorded in the Office of the Recorder of Darke County; or a parcel of land, the deed to which was of record as of the effective date of the zoning regulation.

SECTION 213 DEFINITIONS (beginning with the letter “M”)

213.01 MANUFACTURING

The assembling, altering, converting, fabricating, finishing, processing, or treatment of a product.

213.02 MANUFACTURED HOME

A factory-built, single-family structure that is manufactured under the authority of *42 U.S.C. Sec. 5401*, the National Manufactured Home Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation, but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

213.03 MOBILE HOME - See Trailer (House)

213.04 MOTEL/MOTOR HOTEL

A series of attached, semidetached, or detached rental units containing a bedroom, bathroom, and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.

213.05 MOTOR HOME

An automotive vehicle built on a truck or bus chassis and equipped as a self-contained traveling home. See also SUBSECTION 220.02 - TRAILER.

SECTION 214 DEFINITIONS (beginning with the letter "N")

214.01 NON-CONFORMING USE OF BUILDINGS AND LAND

The lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of enactment of a zoning regulation or amendment thereto, may be continued, although such use does not conform with the provisions of such regulation or amendment.

If any such non-conforming use is voluntarily discontinued for two (2) years or more, any future use of such land shall be in conformity with *Sections 713.06 to 713.15* inclusive, of the Revised Code.

214.02 NUISANCE

An interference with the enjoyment and use of property.

214.03 NURSERY OR CHILD DAY CARE CENTER

A permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time; any facility classified as a Type-B family day-care home by the Ohio Revised Code.

214.04 NURSING HOME, REST HOME OR CONVALESCENT HOME

A place, residence or home used for the boarding and care, for payment, of not less than three (3) persons, not members of the immediate family operating such facilities, who by reason of age or infirmity are dependent upon the services of others.

SECTION 215 DEFINITIONS (beginning with the letter “O”)

215.01 OPEN SPACE

Land used for recreation, resource protection, amenity, and/or buffer yards. In no event shall any area of a lot constituting the minimum lot area of said lot, nor any part of an existing or future road or right-of-way, be counted as constituting open space except that buffer yard areas may be included in the area of a lot constituting the minimum lot area.

SECTION 216 DEFINITIONS (beginning with the letter "P")

216.01 PARKING LOT

A hard or semi-hard surfaced, dust-free area, other than street or public way, to be used for the parking of vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

216.02 PARKING SPACE

A ten (10) foot by twenty (20) foot hard surface for the temporary parking of automobiles.

216.03 PARKING SPACE, OFF-STREET

A space adequate for parking a motor vehicle with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. For General Provisions, See SECTION 411 - OFF-STREET PARKING.

216.04 PLANNED DEVELOPMENT

Planned Development is:

- A. Land under unified control, planned and developed as a whole, and
- B. In a single development operation or a definitely programmed series of development operations including all lands and buildings, and
- C. According to comprehensive and detailed plans which include not only streets, utilities, lots, or building sites and the like, but also site plans and design principles for all buildings as intended to be located, constructed, used, and related to each other; and detailed plans for other uses and improvements on the land as related to buildings, and
- D. With a program for provision, operation, and maintenance of such areas, improvements, and facilities necessary for common use by some or all of the occupants of the development, but which will not be provided, operated, or maintained at general public expense.

216.05 PLOT

A parcel of land that can be identified and referenced to a recorded plat or map.

SECTION 217 DEFINITIONS (beginning with the letter "Q")

SECTION 218 DEFINITIONS (beginning with the letter "R")

218.01 RECREATION

The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing or swimming, or may be passive, such as enjoying natural beauty and wildlife.

218.02 RECREATION VEHICLE

Any building, structure, or vehicle designed and/or used for living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place, and automobiles when used for sleeping purposes and including pick-up coaches (campers), motorized homes, boats, travel trailers, and camping trailers not meeting the specification required for a manufactured or mobile home.

218.03 REFUSE

Refuse shall mean combustible and non-combustible waste materials, except garbage, rubber, leather, tree branches, tin cans, metals, mineral matter and dust.

218.04 RESTAURANT

A structure in which the principal use is the preparation and sale of food and beverages.

218.05 RIGHT OF WAY

A strip of land acquired by reservation, dedication, prescription, or condemnation, and intended to be occupied by a street, trail, water line, sanitary sewer, and/or other public utilities or facilities.

218.06 ROADSIDE STAND

A temporary structure designed or used for the display or sale of agricultural products which may or may not be located on a zoning lot where the principal use is agricultural.

218.07 ROOM, HABITABLE

A room occupied or designed to be occupied by one or more persons for living, sleeping, eating or cooking, including kitchens serving a dwelling unit; but not including bathrooms, toilet compartments, laundries, pantries, cellars, attics for storage, and other similar spaces.

SECTION 219 DEFINITIONS (beginning with the letter "S")

219.01 SETBACK (See SUBSECTION 202.05 - BUILDING LINE)

219.02 SHED

A subordinate structure or building in a residential district, commonly known as a storage, garden, or utility shed, used primarily for storage purposes.

219.03 SIGN

A name, identification, description, display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land; or affixed to the glass on the outside or inside of a window so as to be seen from the outside of a building and which directs attention to an object, product, place, activity, person, institution, organization, or business.

219.04 STREET

An improved public right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property or any such right-of-way more than thirty (30) feet and less than fifty (50) feet in width provided it existed prior to the enactment of this Regulation and provided such street has been accepted by the Village, Township or Darke County. The term "street" shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

219.05 STRUCTURE

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

219.06 SUBDIVISION

The division of land into two or more lots; a development consisting of subdivided lots.

219.07 SWIMMING POOL

A structure, whether above or below grade level, designed to hold water more than 30 inches deep to be used for recreational purposes.

SECTION 220 DEFINITIONS (beginning with the letter "T")

220.01 THOROUGHFARE PLAN

The Official Thoroughfare Plan of, and when adopted by Darke County, establishing the location and official right-of-way widths of principal highways and streets in the County to be on file in the Office of the Recorder, together with all amendments thereto subsequently adopted.

220.02 TRAILER (See SECTION 413 - GENERAL PROVISIONS, TRAILERS and ARTICLE 7 - MOBILE HOME RESIDENTIAL)

A. House Trailer or Mobile Home

Any self-propelled or non-self-propelled vehicle so designed, constructed, reconstructed, or added to by means of accessories in such a manner as will permit the year-round use and occupancy thereof for human habitation and having water, electrical, and sewage connections similar to those of conventional dwellings; whether resting on wheels, jacks, or other foundation and used or so constructed as to permit its use as a conveyance upon the public streets or highways.

B. Travel Trailer

A vehicular portable structure built on a chassis and not exceeding a gross weight of four thousand five hundred (4,500) pounds when factory equipped for the road or an overall length of thirty (30) feet and designed to be used as a temporary dwelling for travel, recreational, and vacation uses.

C. Mobile Home Park

An area of land for the parking of three (3) or more mobile homes.

D. Travel Trailer Park

An area of land for the parking of three (3) or more travel trailers.

SECTION 221 DEFINITIONS (beginning with the letter "U")

SECTION 222 DEFINITIONS (beginning with the letter "V")

222.01 VARIANCE

A departure from any provision of the zoning requirements for a specific parcel, except use, without changing the zoning ordinance or the underlying zoning of the parcel. A variance usually is granted only upon demonstration of hardship based on the peculiarity of the property in relation to other properties in the same zone district.

SECTION 223 DEFINITIONS (beginning with the letter “W”)

SECTION 224 DEFINITIONS (beginning with the letter “X”)

SECTION 225 DEFINITIONS (beginning with the letter “Y”)

225.01 YARD, FRONT

A. Front Yard

An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

B. Front Yard (least depth)

The shortest distance, measured horizontally, between any part of the building, and the front lot line.

C. Front Yard (least depth, how measured)

Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts; provided, however, that if the proposed location of the right-of-way line of such street as established on the Thoroughfare Plan 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 said Thoroughfare Plan.

225.02 YARD, REAR

A. Rear Yard

An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

B. Rear Yard (Least Depth)

The average distance measured horizontally between any part of a building and the nearest rear lot line.

225.03 YARD, SIDE

A. Side Yard

An open space extending from the front yard to the rear yard between a building and the nearest side lot line unoccupied and unobstructed from the ground upward except as hereinafter specified.

B. Side Yard (Least Width)

The shortest distance, measured horizontally, between any part of a building, other than such parts herein excepted, and the nearest side lot line.

C. Side Yard (Least Width, How Measured)

Such width shall be measured from the nearest sideline. On a corner lot when the side lot line is a side street lot line, the required side yard shall be the same as the required front yard of the lot adjacent thereto.

SECTION 226 DEFINITIONS (beginning with the letter “Z”)

226.01 ZONING CERTIFICATE

That document signed by the Zoning Inspector or the authorized agent which certifies that the use to be made of a particular property is a permissible use according to the terms of this Zoning Regulation.

226.02 ZONING INSPECTOR

The Zoning Inspector (Administrative Officer) or his/her authorized representative, who is appointed by the Village Council and who shall have the duty to enforce this Regulation in accordance with the administrative provisions of this Regulation. See ARTICLE 14 - ENFORCEMENT PENALTIES.

226.03 ZONING MAP

The Zoning Map or Maps of New Madison or portion thereof together with all amendments thereto subsequently adopted.

ARTICLE 3

ZONING DISTRICTS, BOUNDARIES, AND MAPS

SECTION 300 DISTRICTS ESTABLISHED

The area of New Madison, Darke County, Ohio, zoned under *Section 713.06 et. seq.*, of the Revised Code of the State of Ohio, shall be and is hereby divided into the following districts:

- “A” Agricultural Residential District
- “R-1” Single-Family Residential District
- “R-2” Single-Family Residential District
- “R-3” Mobile Home Residential District
- “B-1” Neighborhood Business District
- “B-2” Central/Highway Business District
- “I-1” Light Industrial District
- “PURD” Planned Unit Residential Development District

SECTION 301 BOUNDARIES

301.01 INCORPORATION

The boundaries of these districts are hereby established as shown on the Zoning Map of the area of New Madison in Darke County, Ohio, which map is hereby made a part of this Regulation. The said "Zoning Map" and all notations and references shown thereon shall be and are hereby made part of this Regulation. Said "Zoning Map" properly attested shall be and remain on file in the Office of the Village Zoning Inspector.

301.02 AREAS SHOWN ON MAP

It is the intent of this Zoning Regulation that the entire area under the jurisdiction of New Madison Zoning, including all land, water areas, rivers, streets, alleys, railroads, and other rights-of-way be included in the districts established by this Regulation. Any area not shown on the Official Zoning Map of New Madison as being included in any district shall be deemed to be in the "A" district, Agricultural Residential District.

301.03 RULES OF INTERPRETATION

In the event uncertainty exists with respect to the intended boundaries of the various districts as shown on the Official Zoning Maps, the following rules shall apply:

- A. Where the designation of a boundary line on the Zoning Maps coincides with the location of a street or alley, the centerline of such street or alley shall be construed to be the boundary of such district.
- B. Where the district boundaries do not coincide with the location of streets or alleys, but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
- C. Where the district boundaries do not coincide with the location of streets, alleys, or lot lines, the district boundaries shall be determined by the use of the scale shown on the Zoning Maps.
- D. All streets, alleys, public ways, waterways, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, public ways, waterways, and railroad rights-of-way.
- E. Where the centerline of a street, alley, public way, waterway or railroad right-of-way, serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline.

SECTION 302 DISTRICT REQUIREMENTS

In all districts, no building or structure or part thereof hereafter shall be erected, constructed, or altered and maintained, and no new use or change shall be made or maintained of any building, structure, or land or part thereof, except in conformity with the provisions of this Regulation.

SECTION 303 ZONING OF NEWLY ANNEXED LAND

When land is annexed to the Village of New Madison, the applicable township zoning regulations then in effect shall remain in full force and shall be enforced by the township officials until such time as the Village shall approve a zoning district for the annexed land. See ARTICLE 15 - VILLAGE PLANNING COMMISSION DISTRICT CHANGES AND ORDINANCE AMENDMENTS.

ARTICLE 4

GENERAL PROVISIONS

SECTION 400 FENCES

- A. Fences cannot be constructed in any public easement or right-of-way.
- B. Fences can be located up to the property line; property owner is responsible for determining location of property line.
- C. Fences shall not measure more than twelve (12) inches in thickness .
- D. Side and Rear Fences

Fences constructed within a side or rear yard shall not be higher than five (5) feet as provided herein.

- E. Planting, Fences, and Walls in Front Yard

No fence, wall or hedge shall rise over two feet in height on any required front yard except in certain instances where the height may be 3 ½ feet, with the post not to be more than 4 feet, when in the discretion of the Planning Commission said fence will not obstruct a motor vehicle operator's view of traffic. No fence, wall, or hedge planting shall interfere with visibility from a driveway. The enforcing officer is hereby empowered to cause all such obstructions to be removed in the interest of the public safety.

- F. Fences made of cement block are not permitted in a residential district. Fences with any type of electrical current and/or barbed wire are not allowed in a residential district.

SECTION 401 ACCESSORY STRUCTURES

Construction of an accessory structure in a residential district requires a permit and is subject to approval in accordance with the following:

- A. Accessory structures cannot be placed closer than six feet (6) to a main structure or within three (3) feet of any property line, or on any easements.
- B. Accessory structures cannot be installed closer to the street than the building set-back line.

- C. Accessory structures shall not exceed the largest computation of the following:
 - 1. 650 square feet,
 - 2. one-half (1/2) the floor area of the principal dwelling, or
 - 3. two percent (2%) of the total square footage of the lot or parcel.
- D. Each dwelling shall be limited to two detached accessory structures and their total size shall not exceed the limitations outlined above in paragraph (C) above with a total maximum limitation of five thousand (5,000) square feet.
- E. The maximum average height of an accessory structure cannot exceed 14 feet; maximum average height is determined as one-half (1/2) the distance between the eave and the ridge.
- F. All accessory structures must be installed on a 4-inch slab and anchored with concrete anchoring devices. In lieu of a concrete slab, pilasters may be used consisting of concrete or treated lumber for ground contacts as approved by the Zoning Inspector.
- G. A wooden structure must be 6 inches above grade, if built of untreated lumber, to prevent rotting and wood-boring insects. If metal, the structure should be 3 inches off the ground to prevent rusting.
- H. No accessory structure shall be used as a dwelling.
- I. No home occupation be conducted in any accessory structure.

SECTION 402 REMOVAL OF SOIL, SAND, OR OTHER MATERIAL

The use of land for the removal of topsoil, sand or other material from the land other than materials from basement excavations is not permitted in any district except under a temporary permit from the Board of Zoning Appeals. This permit may be accompanied by a suitable agreement or bond that such removal will not cause stagnant water to collect or leave the surface of the land, at the expiration of such permit, in an unstable condition or unfit for the growing of turf or for other land uses permitted in the district in which such removal occurs.

SECTION 403 ESSENTIAL SERVICES

Essential services shall be allowed in any district insofar as permitted, authorized, or regulated by law or other ordinance. Buildings required in conjunction with an essential service may be permitted in any district when approved by the Planning Commission. In granting such permission

the Planning Commission shall take into consideration the location, size, use, and effect such building will have on the adjacent land and buildings.

SECTION 404 EXTERNAL EFFECTS

No land, building, or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, or other hazard; noise, brilliant light, vibration; smoke, dust, fumes, odor, or other form of air pollution; heat, cold, dampness, electrical or electronic disturbances, nuclear radiation or any condition, substance or element, to any person or property outside of the premises on which such building, structure, or use is located; such uses when lawfully permitted under the provisions of this Zoning code shall be operated in a manner so as to insure that the property rights of all other parcels of land will not be adversely affected to the extent of reducing the enjoyment of property rights thereon.

SECTION 405 OUTDOOR STORAGE & WASTE DISPOSAL

- A. No highly flammable or explosive liquids, solids, or gases shall be stored above ground except in a light or heavy industrial district. In residential districts, tanks or drums of propane fuel directly connected with heating devices or appliances are limited to a total capacity of 250 pounds and must be located in the rear yard and be least 10 (ten) feet from the residence and property lines.
- B. All outdoor storage facilities for fuel, raw materials, and products shall be enclosed by a fence, wall, or planting to conceal such facilities from adjacent residential property.
- C. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by wind, flood, or natural causes or forces.
- D. All materials or wastes which might cause fumes, dust, or which constitute a fire hazard, or which may be edible or attractive to rodents or insects shall be stored outdoors only in closed containers or impervious material.

SECTION 406 PROJECTIONS INTO REQUIRED YARDS

- A. Chimneys, flues, sills, pilasters, cornices, eaves, gutters, and other similar features may project into a required side yard a maximum of twenty-four (24) inches.
- B. No structure may project into a required side yard except that, where a single lot under one ownership existed in a residential district at the time of the passage of this Zoning Code and such lot is of insufficient

width to meet the side yard requirements of this Zoning Code, the Board of Zoning Appeals may grant a minimum variance to permit the construction of a one-family residence.

SECTION 407 EXCEPTIONS TO HEIGHT LIMITATIONS

- A. Chimneys, domes, spires, necessary mechanical appurtenances, and commercial radio and television towers may exceed District height limitations.
- B. Public, semipublic, or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding ninety feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.
- C. Commercial radio and television towers shall be located centrally on a continuous parcel having a dimension at least equal to the height of the tower measured from the center of the base of the tower to all points on each property line.
- D. Radio towers for licensed amateur radio stations which exceed the allowable height of structure in the residentially zoned districts shall be limited in height from their base to the distance from the base to the nearest property line.

SECTION 408 TEMPORARY USES

In any district, subject to the conditions stated below, the Zoning Inspector may issue a permit for the following temporary uses:

- A. Temporary building or yard for construction offices, material, or equipment, provided such use is adjacent to the construction site and removed when construction is completed. Each permit shall be valid for six months and may be renewed if construction is underway, and shall be removed when construction is completed or discontinued for more than thirty days.
- B. Temporary office incidental and necessary to real estate sales and rental. Each permit shall be valid for no more than one year and may be renewed for one additional year if conditions warrant such renewal.
- C. Building and yard locations shall be subject to such conditions and safeguards as the enforcing officer may deem necessary to preserve the character of the surrounding area.
- D. Gatherings under canvas or in open: Religious service, show, meeting, exhibition, bazaar, carnival or circus except that if located within four-

hundred (400) feet of any residential area no permit will be issued unless there is first filed with the Zoning Inspector the written consent of the owners of sixty percent of all residentially used property within four-hundred (400) feet from the place of such meeting.

SECTION 409 MAJOR STREET SETBACKS

Any building or structure shall hereafter be constructed in accordance with the required front yard setback in the district in which it is to be located, measured from the required right-of-way line on major streets and secondary streets.

SECTION 410 OFF-STREET LOADING REGULATIONS

On the same premises with every building, or structure or part thereof, erected and occupied for commerce, industry, public assembly, or other uses involving the receipt or distribution by vehicles of materials or merchandise, there shall be provided and permanently maintained adequate space for standing, loading, and unloading services in order to avoid undue interference with public use of the streets or alleys in conformance to the following:

A. Screening

Off-street loading spaces that adjoin or are across a street or alley from property zoned for any residential use shall permanently maintain a dense evergreen planting with a minimum height of four feet and mature height of at least five feet six inches, or a solidly constructed decorative fence, or a masonry wall along the mutual boundary with the residential area except for the portion of the boundary located within a required front yard.

B. Entrances and Exits

Off-street loading spaces shall be provided with entrances and exits not less than twelve feet in width and so located as to minimize traffic congestion.

C. Dimensions

Each off-street loading space may occupy all or any part of any required rear yard space.

D. Amount of Loading Space Required

The minimum amounts of off-street loading space shall be provided according to the following table. An area adequate for maneuvering, ingress and egress shall be provided in addition to required loading space.

Amount of Loading Space Required (continued):

Square Feet of Gross Floor Area	Required No. of Spaces
Up to 10,000	1
10,001 to 20,000	2
20,001 to 40,000	3
40,001 to 75,000	4
75,001 to 125,000	5
For each additional 50,000 square feet	1 additional space

SECTION 411 OFF-STREET PARKING

- A. Residential off-street parking spaces shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.
- B. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.
- C. Off-street parking existing at the effective date of this Zoning Code in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- D. Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- E. In the instance of dual function of off-street parking spaces where operating hours do not overlap, the Appeals Board may grant an exception.
- F. The storage or repair of vehicles is prohibited.
- G. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use, which the Board of Zoning Appeals considers as being similar in type.
- H. A suitable means of ingress or egress for vehicles to premises used for parking shall be provided, and shall open directly from and to a public

street, alley, or highway. The width of any exit or entrance adjoining property or opposite property zoned for residential uses shall be approved by the Planning Commission or Director of Safety and may require the owner to provide acceleration and/or deceleration lanes where traffic volumes indicate the need.

- I. Fencing, wheel stops, or other physical barriers shall be provided for all boundaries of the parking area except at points of ingress and egress to prevent encroachment of vehicles.
- J. All parking lots shall be surfaced with a hard or semi-hard, dust-free surface.
- K. If the parking lot is to be open for use after dark it shall be provided with not less than two lumens of light per square foot of parking lot surface. Lights shall be shielded so as not to shine directly or in an offensive manner on the adjoining residential property.
- L. When a parking lot abuts a residential zone there shall be screening permanently maintained along such boundary.
- M. Prior to constructing an accessory parking lot, the owner or person in charge of the land to be used for parking shall submit a plot plan to the Zoning Inspector who will submit the same to the Planning Commission and any other appropriate agencies for their consideration and recommendations. Such plot plan shall show the boundaries of the property, location of adjacent houses, parking spaces, circulation patterns, drainage plan, and construction plan for boundary walls and planting plan.
- N. The Board of Zoning Appeals may permit accessory parking within an adjacent lot zoned for residential uses, providing:
 - 1. Such lot is necessary for the public convenience and will not have an adverse effect on adjacent properties.
 - 2. A public hearing is held in accordance with the procedure given in ARTICLE 16 – BOARD OF ZONING APPEALS.
 - 3. All provisions in this Section are complied with.
 - 4. No parking shall be permitted between the street line and the building line prevailing in the district in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
 - 5. A dense evergreen planting with a minimum height of four feet and a mature height of at least five feet six inches, or solidly constructed decorative fence shall be permanently maintained

along the mutual boundary of the restricted accessory parking area and adjacent land zoned for residential uses except for the portion of such boundary located within a required front yard.

6. Whenever a lot located in a residential district is used for accessory parking purposes and is located across the street from land in a residential district, that portion of the lot used for parking purposes shall be screened from the street as specified in SUBSECTION 411(N)5 (above) hereof, except for access drive, such screening to be placed along the setback line.
7. Ingress and egress for vehicles to any premises used under a conditional use permit by the Board of Zoning Appeals shall be by means of streets or alleys through business or industrial areas, not by means of streets or alleys through residential areas.

SECTION 412 SCREENING

412.01 INTENT

Hereafter no buildings or structures shall be erected, altered or enlarged nor shall land be used for any nonresidential use on a lot that adjoins or faces any residential district until a plan for Screening has been submitted and approved by the Zoning Inspector.

412.02 REGULATIONS

- A. Use of Screening - Screening shall be provided for one or more of the following purposes:
 1. A visual barrier to partially or completely obstruct the view of unattractive structures or activities.
 2. As an acoustic screen to aid in absorbing or deflecting noise.
 3. For the containment of debris and litter.
- B. Composition of Screening - Screening may be one of the following or a combination of two or more:
 1. A solid masonry wall
 2. A solidly constructed decorative fence
 3. A louvered fence
 4. Dense evergreen plantings

- C. Location of Screening - Whenever any nonresidential use abuts a residential district, a visual screening wall, fence or planting shall be erected or placed along such mutual boundary lines.
- D. Height of Screening - Visual screening walls, fences or plantings shall be at least five feet six inches high except in required front yards where maximum height shall not be greater than two (2) feet.
- E. Depth or Width of Screening - Screening for purposes of absorbing or deflecting noise shall have a depth of at least ten (10) feet or dense plantings or a solid masonry wall in combination with decorative plantings.
- F. Protection - Whenever required screening is adjacent to parking areas or driveways such screening shall be protected by bumper blocks, posts, or curbing to avoid damage by vehicles.

SECTION 413 TRAILERS

- A. No mobile home may be stored or parked in any residential district.
- B. No trailer classed as a travel trailer, recreation vehicle, or boat may be stored or parked in any required front yard of any residential district.
- C. No trailer classed as a travel trailer, recreation vehicle, or boat which belongs to a visitor may be parked and/or occupied on any lot on a noncommercial basis for a period exceeding two weeks. The Zoning Inspector shall have the authority to issue a permit for an additional two weeks (not to exceed a total of four weeks in any six month period) if a fee of \$10.00 is paid in full and the request is made in writing before the expiration of the first two-week period.
- D. No mobile homes or mobile home units may be placed in any district other than a Mobile Home Park. Temporary mobile trailers (i.e., construction trailers, temporary offices, etc.) that are not designed for residential purposes may be placed for the required temporary period. Modular units that are not manufactured with an axle and have a permanent purpose will be allowed in the districts, as necessary and approved by filing for a Zoning Permit. An approval must be secured before any portion of the structure can be placed.

SECTION 414 DRIVE-IN SERVICE ESTABLISHMENTS

- A. Establishments that, by their nature, create periodic lining up of customers in automobiles waiting to be serviced shall provide off-street areas for those waiting customers.

This includes such activities as:

1. Drive-in banks
2. Quick auto washes
3. Drive-in retail outlets
4. Drive-in service and repair drop-off stations for such items as clothing, appliances, and equipment
5. Food Establishments

B. Those establishments that can serve their customer in three minutes or less shall provide at least five off-street waiting spaces per window. Quick auto washes shall provide at least five off-street waiting spaces. Where normal customer servicing time is greater than three minutes per car, additional spaces shall be provided on the basis of one additional space per additional minute of waiting.

SECTION 415 BARRIERS TO ENCROACHMENT

Hereinafter any lot used for parking, storage, or display of vehicles for sale or rent including boats, trailers, mobile homes, and trucks, where such use is permitted to come within three feet of any property line separating such lot from any property held by any other ownership including public land, the property lines thereof shall be protected from encroachment by the installation of wheel stops, bumper guards, or fencing so placed and erected as to prevent vehicles from projecting over such lines except at approved points of ingress and egress.

SECTION 416 CELLULAR/PERSONAL WIRELESS SERVICE SITES

416.01 INTENT

In recognition of the quasi-public nature of cellular and/or wireless personal communications systems, it is the purpose of these regulations as set out herein in SECTION 416, and known as “CELLULAR OR PERSONAL WIRELESS SERVICE SITES” to:

- A. Accommodate the need for cellular or communications towers and facilities for the provision of personal wireless services while regulating their location and number in the Village;
- B. Minimize adverse visual effects of cellular or personal wireless communications towers and support structures through proper siting, design, and screening;

- C. Avoid potential damage to adjacent properties from cellular or personal wireless communications towers and support structure failure; and
- D. Encourage the joint use of any new and existing or cellular or wireless personal communications towers and support structures to reduce the number of such structures needed in the future.

416.02 REGULATIONS

- A. Cellular/Personal Wireless Service Sites shall be screened by a solid wood fence at least six (6) feet high. This fence shall be surrounded by an evergreen hedge, which shall be continuous, except for an entryway. A plan for screening and fencing any equipment, other than a Cellular/Personal Wireless Service Tower or Cellular/Personal Wireless Service Antenna, which projects above the fence is required and must be approved, prior to installation, by the Zoning Inspector.
- B. Cellular/Personal Wireless Service Sites shall be dismantled and all Personal Wireless Service Sites maintained therein shall be removed within six (6) months after cessation of operations therein.
- C. The Zoning Inspector shall not issue a Zoning Permit for a Cellular/Personal Wireless Service Site until after the applicant has provided written certification that all required state and federal permits have been obtained and has supplied copies of all such state and federal permits.
- D. If lighting is required by state or federal authorities, it shall be approved only at the minimum number and intensity and shall be shielded from ground view. If not required by those authorities, no lights, beacons, or strobes shall be mounted on any Cellular/Personal Wireless Service Antenna or Cellular/Personal Wireless Service Tower.
- E. Cellular/Personal Wireless Service Sites shall be situated on land parcels having a minimum area of at least twenty-five (25) acres, and the base of any Cellular/Personal Wireless Service Tower situated thereon shall be set back at the furthest point from property designated for residential use in the Village. The setback from the nearest point on the parcel shall be at least two hundred (200) feet or a distance equal to the maximum height of the highest antenna supported thereby, whichever is greater.
- F. No part of any Cellular/Personal Wireless Service Facility may have a maximum elevation greater than two hundred (200) feet above ground level.

- G. Cellular/Personal Wireless Service Towers shall be constructed in such a manner as to be suitable for supporting at least two (2) differently dedicated Cellular/Personal Service Antennas.

SECTION 417 HOME OCCUPATIONS

Home Occupations are conditionally permitted in Residential Districts. See SECTION 1605 - PROCEDURE FOR OBTAINING A CONDITIONAL USE CERTIFICATE for additional information.

Conditional Use Certificates granted for home occupations shall be temporary in nature and shall be granted to a designated person who resides at the designated address. The permits are not transferable from person to person or from address to address. Should the holder of the Conditional Use Certificate for a Home Occupation die or move to a new location, the permit shall be automatically terminated.

All of the following conditions shall be considered before a Conditional Use Certificate may be approved:

- A. Only one person other than members of the family residing on the premises shall be engaged in such occupation.
- B. 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 twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than the one nameplate sign, not exceeding two square feet in area and non-illuminated.
- D. No home occupation shall be conducted in any accessory building.
- E. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood.
- F. No equipment or process shall be used in such home occupations which create noise, fumes, vibrations, glares, odors, or electrical interference detectable to the normal senses at or beyond the lot line.
- G. No more than two (2) vehicles in addition to those registered at that address shall be present at any time.

- H. There shall be no exterior storage of business equipment, materials, merchandise, inventory, or heavy equipment.
- I. Physicians, surgeons, dentists, dance instructors, banks, instrument instruction in groups, tea rooms, bed and breakfast lodging houses, beauty parlors, barber shops, nursing homes, funeral homes and stores, trade, or businesses of any kind not herein excepted shall not be deemed to be home occupations.

SECTION 418 ADULT ENTERTAINMENT FACILITIES

418.01 INTENT

Adult entertainment facilities are allowable under these regulations as a Conditional Use. See SECTION 1605 - PROCEDURE FOR OBTAINING A CONDITIONAL USE CERTIFICATE for additional information. The following required conditions shall be applicable to all adult entertainment facilities within New Madison, Ohio.

418.02 REGULATIONS

- A. No adult entertainment facility shall be established within five-hundred (500) feet of any area zoned for residential use.
- B. No adult entertainment facility shall be established within a radius of one-thousand (1,000) feet of any school, library, or teaching facility, whether public or private, governmental or commercial, which school, library, or teaching facility is attended by persons under eighteen years of age.
- C. No adult entertainment facility shall be established within a radius of one-thousand (1,000) feet of any other adult entertainment facility or within a radius of two-thousand (2,000) feet of any two (2) of the following establishments:
 - 1. Cabarets, clubs, or other establishments which feature topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.
 - 2. Establishments for the sale of beer or intoxicating liquor for consumption on the premises.
 - 3. Pawn shops.
 - 4. Pool or billiard halls.
 - 5. Pinball palaces, halls, or arcades.
 - 6. Dance halls or discotheques.

- D. No adult entertainment facility shall be established within a radius of five-hundred (500) feet of any church, synagogue, or permanently established place of religious services which is attended by persons under eighteen years of age.
- E. 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 areas, semi-public areas, or quasi-public areas.
- F. All building openings, entries, windows, for adult uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public areas, semi-public areas, quasi-public areas, any sidewalk, or any street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from any public areas, semi-public areas, quasi-public areas, any sidewalk, or any street.
- G. No screens, speakers, or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from any public areas, semi-public areas, quasi-public areas, any sidewalk, or any street.
- H. Off-street parking shall be provided in accordance with the New Madison Zoning Code.

ARTICLE 5

"A" AGRICULTURAL RESIDENTIAL DISTRICT

SECTION 500 INTENT

This district has been established to provide for agricultural activity on large tracts and areas of open land with a minimum of ten (10) acres per lot.

SECTION 501 PRINCIPAL PERMITTED USES

- A. Agriculture and the usual agricultural buildings and structures, provided that any enclosure or building in which animals are housed shall be a distance of at least three-hundred (300) feet from any dwelling other than a farm dwelling or from any lot in an abutting Residential or Business District.
- B. Single-family dwellings as governed by ARTICLE 6 - R1 AND R2 SINGLE-FAMILY RESIDENTIAL DISTRICT.
- C. Public, parochial, and other private elementary and/or high schools offering courses in general education and not operated for profit.
- D. Publicly owned and operated buildings and facilities.
- E. Places of worship.
- F. Publicly owned parks, playgrounds, community centers, and libraries.
- G. Cemeteries, including mausoleums and crematoria, provided that any mausoleum or crematorium shall be a distance of at least two-hundred (200) feet and burial sites at least one-hundred (100) feet from adjacent property, street and highway lines, and provided further that any new cemetery shall contain on area of twenty (20) acres or more.
- H. Nursery or Child Day-Care Center.

SECTION 502 CONDITIONAL USE

The following Conditional Uses are subject to approval in accordance with SECTION 1605 - PROCEDURE FOR OBTAINING A CONDITIONAL USE CERTIFICATE.

- A. Home occupation as specified in SECTION 208.01 - HOME OCCUPATION (definitions) and in SECTION 417 - HOME OCCUPATIONS (general provisions).

- B. Airports.
- C. Kennels and animal hospitals for the raising, breeding, treatment, and boarding of dogs, or other small animals, provided that all outside runs be at least two-hundred (200) feet from all property lines. There shall be a ten-foot wide landscape strip to shield the kennels from adjacent properties. The landscaped strip shall be improved with hedges, shrubs and trees.
- D. Riding academies; provided that such building or stable shall be a distance of two-hundred (200) feet from any lot in any Residential District.
- E. Golf courses, swimming pools, tennis courts, gun clubs, and similar recreational uses, but not including driving ranges, miniature golf courses, and pitch and putt courses.
- F. A trailer or other temporary building for a limited period, to be determined by the Planning Commission, primarily for use while a permanent dwelling is being constructed on the same lot.
- G. A swimming pool, fishpond, lake, bathhouse, tennis court, or other recreational facilities designed for the use of the occupants of the dwelling and their guests. Such facilities shall comply with the following conditions and requirements:
 - 1. The facility and any walks or paved areas or accessory structures adjacent thereto shall not be located in any front yard and shall be no closer than five (5) feet from the side lot line, rear lot line, or easement line;
 - 2. The swimming pool, fish pond, lake or the entire property on which it is located, shall be walled or fenced to prevent uncontrolled access by children from the street or from adjacent properties. For above-ground pools, said fence shall be no less than five (5) feet in height from ground level and for in-ground pools said fence shall be no less than three (3) feet above the pool deck; Said fences shall be constructed of one of the following materials:
 - a. Wood of vertical boards placed close enough together to prohibit access to children, pets, etc.
 - b. Woven wire with stays of six (6) inches or less.
 - c. The enclosure around any private swimming pool shall be provided with an access opening or openings, as necessary, and which openings shall be provided with gates of a type that close and latch automatically, and can be locked when not in use.

- d. The entire fence shall be kept in a neat condition and in a state of good repair.
- e. The facilities shall be located on the same zoning lot as the principal building, structure or use;
- f. Any pool for the use of occupants of a multi-family dwelling containing over three (3) apartments shall meet the structural and sanitary requirements of the Ohio Department of Health.
- g. The pool, fishpond, or lake is intended to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.

SECTION 503 ACCESSORY USES

- A. Single-family dwellings or trailers for persons employed on the premises or for relatives of the owner(s) or lessee(s) and not rented or otherwise used as a separate dwelling.
- B. A garage, parking space, or stable.
- C. Roadside stands, offering for sale only agricultural products grown on the premises.
- D. The keeping of animals and/or fowl as pets or for domestic use.

SECTION 504 DEVELOPMENT STANDARDS

The following standards for arrangement and development of land and building are required in the "A" Agricultural Residential District.

504.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

504.02 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

“A” Agricultural Residential District

minimun LOT AREA	LOT FRONTAGE	FRONT YARD Depth	SIDE YARD, least width	REAR YARD Depth
10 acres	400 feet	100 feet	50 feet	100 feet

504.03 LOTS IN COMBINATION ALONG EXISTING STREETS

Notwithstanding the provisions of the aforementioned subsections, no more than two (2) lots in a row may be created by fronting on existing streets. Furthermore, a distance of at least twelve-hundred (1,200) feet shall be maintained between each "pair of homes."

504.04 LOTS OF LESS THAN TEN (10) ACRES

The Board of Zoning Appeals may provide for not more than two (2) lots of less than ten (10) acres per farm in existence as of the effective date of this Regulation.

ARTICLE 6

"R-1" AND "R-2" SINGLE-FAMILY RESIDENTIAL DISTRICT

SECTION 600 INTENT

The "R-1" and "R-2" Single-Family Residential Districts as herein established are intended to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, single-family detached dwellings along with other residentially related facilities that serve the residents in the district.

SECTION 601 PRINCIPAL PERMITTED USES

- A. One-family detached dwellings per lot, provided that their lot lines shall be a distance of at least three-hundred (300) feet from any agricultural building in which animals are housed.
- B. Public, parochial, and other private elementary and/or high schools offering courses in general education not operated for profit.
- C. Publicly owned and operated parks, playgrounds, community centers, and libraries.
- D. Cemeteries.
- E. Places of worship.
- F. Nursery or Child Day-Care Center.

SECTION 602 CONDITIONAL USE

The following conditional uses are subject to approval in accordance with SECTION 1605 - PROVISIONS FOR OBTAINING A CONDITIONAL USE CERTIFICATE.

- A. Home occupation as specified in SECTION 208.01 - HOME OCCUPATION (definitions) and in Section 417 - HOME OCCUPATIONS (general provisions).
- B. Private noncommercial golf courses (not including driving ranges, miniature golf courses, and pitch and putt courses), swimming pools, and tennis courts, and accessory uses.
- C. Utility, public service, and municipal buildings that do not require outdoor storage of materials or vehicles.

SECTION 603 ACCESSORY USES

- A. Accessory uses, buildings, or other structures customarily incidental to any aforesaid permitted use, including garages, provided that such accessory uses shall not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity.

- B. Construction of an accessory structure in a residential district requires a permit and is subject to approval in accordance with the following:
 - 1. Accessory structures cannot be placed closer than six feet (6) to a main structure or within three (3) feet of any property line, or on any easements.
 - 2. Accessory structures cannot be installed closer to the street than the building set-back line.
 - 3. Accessory structures shall not exceed the largest computation of the following:
 - a. 650 square feet,
 - b. one-half (1/2) the floor area of the principal dwelling, or
 - c. two percent (2%) of the total square footage of the lot or parcel.
 - 4. Each dwelling shall be limited to two detached accessory structures and their total size shall not exceed the limitations outlined above in paragraph (3) above with a total maximum limitation of five thousand (5,000) square feet.
 - 5. The maximum average height of an accessory structure cannot exceed 14 feet; maximum average height is determined as one-half (1/2) the distance between the eave and the ridge.
 - 6. All accessory structures must be installed on a 4-inch slab and anchored with concrete anchoring devices. In lieu of a concrete slab, pilasters may be used consisting of concrete or treated lumber for ground contacts as approved by the Zoning Inspector.
 - 7. A wooden structure must be 6 inches above grade, if built of untreated lumber, to prevent rotting and wood-boring insects. If metal, the structure should be 3 inches off the ground to prevent rusting.
 - 8. No accessory structure shall be used as a dwelling.
 - 9. No home occupation shall be conducted in any accessory structure.

- C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- D. A swimming pool, fishpond, lake, bathhouse, tennis court, or other recreational facilities designed for the use of the occupants of the dwelling and their guests. Such facilities shall comply with the following conditions and requirements:
 - 1. The facility and any walks or paved areas or accessory structures adjacent thereto shall not be located in any front yard and shall be no closer than five (5) feet from the side lot line, rear lot line, or easement line;
 - 2. The swimming pool, fish pond, lake or the entire property on which it is located, shall be walled or fenced to prevent uncontrolled access by children from the street or from adjacent properties. For above-ground pools, said fence shall be no less than (5) feet in height from ground level and for in-ground pools said fence shall be no less than three (3) feet above the pool deck; Said fences shall be constructed of one of the following materials:
 - a. Wood of vertical boards placed close enough together to prohibit access to children, pets, etc.
 - b. Woven wire with stays of six (6) inches or less.
 - c. The enclosure around any private swimming pool shall be provided with an access opening or openings, as necessary, and which openings shall be provided with gates of a type that close and latch automatically, and can be locked when not in use.
 - d. The entire fence shall be kept in a neat condition and in a state of good repair.
 - e. The facilities shall be located on the same zoning lot as the principal building, structure or use;
 - f. Any pool for the use of occupants of a multi-family dwelling containing over three (3) apartments shall meet the structural and sanitary requirements of the Ohio Department of Health.
 - g. The pool, fishpond, or lake is intended to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.

SECTION 604 DEVELOPMENT STANDARDS

The following standards for arrangement and development of land and buildings are required in the "R-1" and "R-2" Residential Districts.

604.01 HEIGHT REGULATIONS

No structure shall exceed thirty-five (35) feet in height.

604.02 LOT AREA, YARD, FRONTAGE, AND FLOOR AREA REQUIREMENTS

“R-1” AND “R-2” SINGLE-FAMILY RESIDENTIAL DISTRICTS

DISTRICT	minimum LOT AREA	LOT FRONTAGE	FRONT YARD Depth	SIDE YARD, least width	REAR YARD Depth	minimum FLOOR AREA per unit
R-1	12,000 square feet	80 feet	35 feet	12 feet	50 feet	1,500 square feet
R-2	8,000 square feet	65 feet	30 feet	8 feet	50 feet	1,200 square feet

604.03 PARKING

A minimum of one (1) off-street parking space per dwelling unit. For General Provisions, See SECTION 411 - OFF-STREET PARKING.

ARTICLE 7

"R-3" MOBILE HOME RESIDENTIAL DISTRICT

SECTION 700 INTENT

This district has been established to provide for Mobile Homes in Mobile Home Parks. All "R-3" developments must be submitted as Planned Unit Residential Developments under ARTICLE 11. Trailers and mobile homes permanently installed on a lot of record are considered non-conforming structures unless located in a mobile home park.

SECTION 701 PRINCIPAL PERMITTED USES

- A. Mobile Home Parks
 - 1. Mobile Homes (House Trailers)

SECTION 702 ACCESSORY USES

- A. Coin-operated laundry, laundry and dry cleaning pick-up stations for use of tenants only. No external signs of any nature whatsoever shall be permitted.
- B. Other accessory uses, buildings or structures customarily incidental to the aforesaid use.

SECTION 703 DEVELOPMENT STANDARDS

See ARTICLE 11 - PLANNED UNIT RESIDENTIAL DEVELOPMENT DISTRICT.

703.01 REQUIRED CONDITIONS

- A. Each lot in a Mobile Home Park shall be served with sanitary sewer and water.
- B. The minimum area of a Mobile Home Park shall be ten (10) acres.
- C. A twenty (20) foot Greenbelt shall be located and effectively maintained at all times along all park boundary lines except at established entrances and exits serving the park.
- D. Each Park shall Provide a recreational area, or areas, equal in size to at least eight (8) percent of the gross area of the park. Streets, parking areas, park service facility areas and greenbelt shall not be considered as parts of the required recreational area.

- E. All exterior park lights shall be so located and shielded as to prevent direct illumination of any areas outside the park.
- F. Mobile home sites shall be a minimum of five-thousand (5,000) square feet in area.
- G. Each mobile home site shall have a minimum width of fifty (50) feet.
- H. The minimum distance between a mobile home and another mobile home or structure shall be twenty (20) feet.
- I. Each mobile home shall be located at least ten (10) feet from the greenbelt.
- J. Each mobile home site shall be provided with a stand consisting of a solid concrete slab or two (2) concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons. When concrete ribbons are used, the area between the ribbons shall be filled with a layer of crushed rock.
- K. Accessory uses shall be located at least one-hundred (100) feet from the greenbelt.
- L. A minimum of one and one-half parking spaces for each dwelling unit shall be required. For General Provisions, See SECTION 411 - OFF-STREET PARKING.

ARTICLE 8

"B-1" NEIGHBORHOOD BUSINESS DISTRICT

SECTION 800 INTENT

This district has been established to provide for relatively small business and service establishments that may be placed in a residential or rural area to serve primarily nearby residents. Strip development, however, shall be discouraged.

SECTION 801 PRINCIPAL PERMITTED USES

- A. Grocery and delicatessen stores.
- B. Baked goods shop, retail only.
- C. Barber and beauty shops.
- D. Candy and ice cream stores.
- E. Drug stores.
- F. Pick-up stations for dry cleaning and laundry.
- G. Dry cleaning and Laundromats of the self-service type.

SECTION 802 ACCESSORY USES

- A. Accessory uses, buildings, or other structures customarily incidental to any of the foregoing permitted uses, including automobile service stations.
- B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

SECTION 803 REQUIRED CONDITIONS

No zoning certificate shall be issued for "B-1" use, until the applicant shall have certified to the Zoning Inspector that:

- A. The business activity is open to the public only between the hours of 6:00 A.M. and 11:00 P.M.
- B. The business activity shall be conducted wholly within a completely enclosed building.

- C. All business shall be of retail or service character.
- D. No manufacturing, processing, packaging, repair, or treatment of goods shall be carried on, except when incidental or accessory to the performance of services or the sale of goods to the public on the premises.
- E. All premises shall be furnished with all-weather hard-surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo, or similar material, and, except for parking areas, the grounds shall be planted and landscaped.
- F. Where the property lines separate a Business District from a Resident District, a visual and mechanical barrier, a minimum of six (6) feet in height, shall be provided along the common lot line, which may consist of any of the following:
 - 1. An evergreen hedge not less than three (3) feet in height used with a six (6) foot tall chain link fence.
 - 2. A fence of a non-deteriorating material.
 - 3. Masonry wall.
- G. There shall be no noise from any operation conducted on the premises, either continuous or intermittent, which can be detected without the use of instruments at or beyond the lot lines.
- H. No emission of toxic or noxious matter, which is injurious to human health, comfort, or enjoyment of life and property, or to animal or plant life, shall be permitted. Where such emissions could be produced as a result of accident or equipment malfunction, adequate safeguards considered suitable for safe operation in the business involved shall be taken.
- I. The emission of smoke or other air pollutants shall not violate the standards and regulations of the Darke County Health Department and the Ohio Environmental Protection Agency. Dust and other types of air pollution borne by the wind shall be kept to a minimum by appropriate landscaping, paving, or other acceptable means.
- J. There will be no emission of odors or odor-causing substances that can be detected without the use of instruments at or beyond the lot lines.
- K. There will be no vibrations that can be detected without the use of instruments at or beyond the lot lines.

Failure to comply with any of the Required Conditions by property owners or users will be considered a zoning violation appropriate for prosecution under the terms of this Resolution.

SECTION 804 DEVELOPMENT STANDARDS

The following standards for arrangement and development of land and buildings are required in the "B-1" Neighborhood Business District.

804.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

804.02 LOT AREA, FRONTAGE, COVERAGE AND YARD REQUIREMENTS

“B-1” Neighborhood Business District

minimum LOT AREA	LOT FRONTAGE	FRONT YARD depth	SIDE YARD, least width	SIDE YARD, total width	REAR YARD depth	maximum Percent of lot area covered by all buildings
7,500 square feet	60 feet	25 feet	8 feet*	20 feet*	40 feet	30 percent

* - unless adjoining a Business District, in which case, none is required.

804.03 PARKING

A minimum of one off-street parking space for each two hundred (200) square feet of floor area. For General Provisions, See SECTION 411 - OFF-STREET PARKING.

ARTICLE 9

"B-2" CENTRAL/HIGHWAY BUSINESS DISTRICT

SECTION 900 INTENT

This district has been established to provide for a variety of business functions serving the needs of consumers beyond the immediate neighborhood. Generally, the "B-2" District is characterized by an integrated or planned cluster of establishments served by a common parking area and generating large volumes of vehicular and pedestrian traffic.

SECTION 901 PRINCIPAL PERMITTED USES

- A. Office Buildings.
- B. All retail business, service establishments, or processing uses as follows:
 - 1. Any retail business whose principal activity is the sale, rent, or lease of merchandise in an enclosed building.
 - 2. Any service establishment of an office, showroom; workshop of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer; an establishment doing radio or home appliance repair, photographic reproduction, or similar service establishments that require a retail adjunct.
- C. Private clubs, fraternal organizations, and lodge halls.
- D. Restaurants, sit-down and carryout.
- E. Other uses similar to the above permitted uses.

SECTION 902 CONDITIONAL USES

The following uses shall be permitted subject to the conditions hereinafter imposed for each use and are subject further to review and approval in accordance with SECTION 1605 - PROVISIONS FOR OBTAINING A CONDITIONAL USE CERTIFICATE:

- A. Indoor recreation (wholly enclosed place of recreation or amusement) i.e. theaters, bowling alleys, billiard halls, indoor archery range, indoor tennis courts, indoor skating rinks, assembly or concert halls.

- B. Business in the character of a drive-in or open front store (including service stations and drive-in eating places) subject to the following conditions:
 - 1. Access points should be located at least sixty (60) feet from the intersecting rights-of-way of any two (2) streets.
 - 2. A setback of at least fifty (50) feet from the right-of-way line of any existing or proposed street must be maintained.
- C. Agricultural implement sales and service.
- D. Hay, grain, and feed stores.
- E. New and used car salesrooms, showrooms, and outdoor sales space.
- F. Veterinary hospitals, clinics, kennels, or pounds, provided all activities are conducted within a totally enclosed main building and further that all buildings are set back at least one-hundred (100) feet from abutting residential districts on the same side of the street.
- G. Outdoor recreation (non-enclosed places of recreation or amusement) i.e. drive-in theaters, driving ranges, etc.
- H. Residential, occupying less than fifty percent (50%) of building's floor area.

SECTION 903 ACCESSORY USES

- A. Accessory uses, buildings, or other structures customarily incidental to any of the foregoing permitted uses.
- B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

SECTION 904 REQUIRED CONDITIONS

No zoning certificate for a "B-2" use shall be issued until the applicant has certified to the Zoning Inspector that:

- A. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- B. No manufacturing, processing, packaging, repair, or treatment of goods shall be carried on, except when incidental or accessory to the performance of services or the sale of goods to the public on the premises.

- C. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon any property located in a Residential District or upon any public street.
- D. Automobile service stations when permitted shall be limited to the selling and dispensing of petroleum fuel primarily to passenger vehicles and to such accessory uses as the sale and installation of lubricants, tires, batteries, accessories and supplies, incidental washing and polishing, tune-ups, and brake repair. No outdoor dismantling, wrecking, or storage of automotive vehicles, parts or accessories shall be permitted. No outdoor storage or rental of trucks, trailers, or passenger vehicles shall be permitted.
- E. All premises shall be furnished with all-weather hard-surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and, except for parking areas, the grounds shall be planted and landscaped.
- F. Where the property lines separate a Business District from a Residential District, a visual and mechanical barrier, a minimum of six (6) feet in height, shall be provided along the common lot line, which may consist of any of the following:
 - 1. An evergreen hedge not less than three (3) feet in height used with a six (6) foot chain link fence.
 - 2. A fence of non-deteriorating material.
 - 3. Masonry wall.
- G. There shall be no noise from any operation conducted on the premises, either continuous or intermittent, which can be detected without the use of instruments at or beyond the lot lines
- H. No emission of toxic or noxious matter, which is injurious to human health, comfort, or enjoyment of life and property or to animal or plant life, shall be permitted. Where such emissions could be produced as a result of accident or equipment malfunction, adequate safeguards considered suitable for safe operation in the business involved shall be taken.
- I. The emission of smoke or other air pollutants shall not violate the standards and regulations of the Darke County Health Department and the Ohio Environmental Protection Agency. Dust and other types of air pollution borne by the wind should be kept to a minimum by appropriate landscaping, paving, or other acceptable means.
- J. There will be no emission of odors or odor-causing substances that can be detected without the use of instruments at or beyond the lot lines.

K. There will be no vibrations that can be detected without the use of instruments at or beyond the lot lines.

Failure to comply with any of the Required Conditions by property owners or users will be considered a zoning violation appropriate for prosecution under the terms of this Resolution.

SECTION 905 DEVELOPMENT STANDARDS

The following standards for arrangement and development of land and buildings are required in the “B-2” Central/Highway Business District.

905.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

905.02 LOT AREA, FRONTAGE, COVERAGE AND YARD REQUIREMENTS

“B-2” Central/Highway Business District

minimum LOT AREA	LOT FRONTAGE	FRONT YARD Depth	SIDE YARD, least width	REAR YARD Depth	Maximum Percent of lot area covered by all buildings
10,000 square feet	80 feet	25 feet	15 feet*	20 feet*	40 percent

* - unless adjoining a Business District, in which case, none is required.

905.03 PARKING

A minimum of one off-street parking space for each two-hundred (200) square feet of floor area. For General Provisions, See Section 411 - OFF-STREET PARKING.

ARTICLE 10

"I-1" LIGHT- INDUSTRIAL DISTRICT

SECTION 1000 INTENT

The "I-1" Industrial District as herein established is intended to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affects in a detrimental way any of the surrounding districts. Wherever possible, the formation of industrial parks shall be encouraged.

SECTION 1001 PRINCIPAL PERMITTED USES

- A. The manufacturing, compounding, assembling, or treatment (or any combination of such processes) or articles or products from the following substances: bone, canvas, cellophane, clay, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semiprecious stone or metal, sheet metal, shell, textile, tobacco, wax, wire, and wood, but not including as a principal operation, the manufacturing of such substances.
- B. Any industrial activity, such as those enumerated below as examples, which fulfills all the requirements of the other sections of this Article.
1. The manufacturing or assembling of the following:
 - a. Medical, dental, optical, and similar precision instruments.
 - b. Musical instruments.
 - c. Novelties, toys, rubber products
 - d. Orthopedic or medical appliances.
 - e. Watches, clocks, including clock-operated devices.
 2. Machine shops and tool and die shops.
 3. Manufacturing, assembling, or repairing of electrical and electronic products, components, and equipment.
 4. Compounding, processing, and packaging of meat, dairy, and food products, candy, exclusive of slaughtering.
 5. Compounding, processing, and packaging of chemical products, but not including any materials that decompose by detonation.

6. Awning company.
7. Bakeries, wholesale.
8. Beverage distributors, manufacturing, bottling plants.
9. Carpet and rug cleaning plants.
10. Electric supply company.
11. Fence company.
12. Glass distributors.
13. Labor union meeting halls.
14. Laboratories - experimental, film, or testing.
15. Laundries, dry cleaning plants and linen supply.
16. Mail order houses.
17. Offices.
18. Printing, publishing, binding, and typesetting plants.
19. Public utilities: including buildings, necessary structures, storage yards, and other related uses.
20. Research and engineering laboratories.
21. Sign painting and manufacturing.
22. Trade or industrial schools.
23. Wholesale houses and storage facilities.
24. Warehouses that may have a maximum lot coverage of seventy-five (75) percent.

SECTION 1002 CONDITIONAL USES

The following conditional uses are subject to approval in accordance with SECTION 1605 - PROVISIONS FOR OBTAINING A CONDITIONAL USE CERTIFICATE.

- A. Truck and motor freight terminals and hauling services.
- B. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activity (such as, but not limited to:

lumber yards, building materials outlets, garage sales, upholsterer; cabinet maker, outdoor boat or house trailer, automobile, agriculture implement sales) or serve the convenience needs of the district (such as, but not limited to: eating and drinking establishments, banks, savings and loan associations, credit unions, automobile service stations, motel and bowling alley; or industrial clinic).

SECTION 1003 ACCESSORY USES

- A. Accessory uses, building, or other structures customarily incidental to any aforesaid uses.
- B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

SECTION 1004 REQUIRED CONDITIONS

No zoning certificate shall be issued for an "I-1" use, until the applicant shall have certified to the Zoning Inspector that:

- A. The industrial activity will be conducted wholly within a completely enclosed building, except for automobile service stations, drive-in restaurants, equipment services, including automobiles, trucks and trailers; truck and motor freight terminals and hauling services.
- B. There shall be no noise from any operation conducted on the premises, either continuous or intermittent, which can be detected without the use of instruments at or beyond the lot lines.
- C. No emission of toxic or noxious matter, which is injurious to human health, comfort, or enjoyment of life and property or to animal or plant life, shall be permitted. Where such emissions could be produced as a result of accident or equipment malfunction, adequate safeguards considered suitable for safe operation in the industry involved shall be taken.
- D. The emission of smoke or other air pollutants shall not violate the standards and regulations of the Darke County Health Department and the Ohio Environmental Protection Agency. Dust and other types of air pollution borne by the wind shall be kept to a minimum by appropriate landscaping, paving, oiling, or other acceptable means.
- E. There will be no emission of odors or odor-causing substances that can be detected without the use of instruments at or beyond the lot lines.
- F. There will be no vibrations that can be detected without the use of instruments at or beyond the lot lines.

- G. Where the property lines separate an Industrial District from a Residential District, a visual and mechanical barrier, a minimum of six (6) feet in height, shall be provided along the common lot line, which may consist of any of the following:
1. An evergreen hedge not less than three (3) feet in height, used with a six (6) foot chain link fence.
 2. A fence of a non-deteriorating material.
 3. Masonry wall.
- H. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon property located in any Residential District or upon any public street.
- I. No building or structure shall be used for residential purposes except that a watchman or custodian may reside on the premises.
- J. No hazardous or volatile materials shall be processed into any of the following basic products: metals of any kind, glass, plastic, textiles, leather or paper.
- K. All premises shall be furnished with all-weather hard-surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and except for parking areas, the grounds shall be planted and landscaped.
- L. The storage, utilization, and manufacture of solid, liquid, and gaseous chemicals and other materials shall be permitted subject to the following conditions:
1. The storage, utilization, or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted; but only if said materials or products are stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.
 2. All activities involving the use and/or storage and/or disposal of flammable liquids or materials which produce flammable or explosive vapors or gases shall be provided with adequate safety and protective devices against hazards of fire and explosion, as well as with adequate firefighting and suppression equipment and devices standard to the industry involved. All above ground storage shall be in enclosed fireproof vaults.
 3. The storage, utilization, or manufacture of pyrophoric and explosive powders and dusts and of materials and products that decompose by detonation is prohibited.

4. The manufacture of flammable liquids or materials that produce flammable or explosive vapors or gases is prohibited.
5. The storage and utilization of flammable liquids, or of materials that produce flammable or explosive vapors or gases shall be permitted on any lot in accordance with the following table:

Total Permitted Quantities of Flammable
Materials in Gallons

Closed Cup Flashpoint in Degrees F.	Above Ground	Below Ground
Class I below 100 degrees F.	I Not Permitted	20,000
Class II above 100 degrees F. and below 140 degrees F.	II 1,000	40,000
Class III above 140 degrees F.	III 5,000	80,000

M. The handling of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive wastes shall be in strict conformance with:

1. The applicable regulations of the Atomic Energy Commission.
2. The applicable regulations of any instrumentality of the State of Ohio.

Failure to comply with any of the Required Conditions by property owners or users will be considered a zoning violation appropriate for prosecution under the terms of this Ordinance.

SECTION 1005 DEVELOPMENT STANDARDS

The following standards for arrangement and development of land and building are required in the "I-1" Light Industrial District.

1005.01 HEIGHT REGULATIONS

No structure shall exceed forty (40) feet in height.

1005.02 LOT AREA, FRONTAGE, COVERAGE AND YARD REQUIREMENTS

“I-1” Light Industrial District

LOT AREA	LOT FRONTAGE	FRONT YARD Depth	SIDE YARD, least width	REAR YARD Depth	maximum Percent of lot area covered by all buildings
N/A	100 feet	50 feet	20 feet*	20 feet*	50 percent

* - unless adjoining an Industrial District, in which case, none is required.

1005.03 PARKING

A minimum of one off-street parking space for every employee in the largest working shift.

ARTICLE 11

"PURD" PLANNED UNIT RESIDENTIAL DEVELOPMENT DISTRICT

SECTION 1100 INTENT

Planned Unit Residential Development Districts may be permitted as amendments to the Zoning Map, after application and approval of specific and detailed plans, where tracts suitable in location and character for the uses and structures proposed are to be planned and developed as units. Regulations set forth herein are adapted to unified planning and development in such districts. Applications for Planned Developments will be granted only when the Development Plan for the project is such that the public health, safety, and morals will not be jeopardized by a departure from the restrictions on corresponding uses in the standard zoning district.

SECTION 1101 PRINCIPAL PERMITTED USE

- A. Residential uses developed in a unified manner in accordance with the approved Development Plan.
- B. Other uses may be permitted if specifically approved as part of the Plan, provided that the areas and structures occupied shall be so located and designed as to protect the character of the surrounding property, and provided further that convenience establishments shall be subject to additional requirements as herein specified:
 1. Convenience Establishments.
 - a. Such establishments and their parking areas shall not occupy more than five (5) percent of the total area of the development.
 - b. Such establishments shall be limited to those permitted in the "B-1" Neighborhood Business District and shall fulfill all the requirements of ARTICLE 8 - B-1 NEIGHBORHOOD BUSINESS DISTRICT.
 - c. Such establishments shall be so located, designed, and operated as to serve primarily the needs of persons within the Development Plan and not persons residing elsewhere.
 - d. Off-street parking and loading requirements shall be appropriate to the particular case based upon the types of convenience establishments permitted and the anticipated proportion of walk-in trade.

SECTION 1102 GENERAL STANDARDS FOR PLANNED DEVELOPMENTS

The Village Council shall not approve an application for Planned Development unless it shall, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it, which support conclusions that:

- A. The Planned Development can be substantially completed within the period of time specified in the schedule of development submitted by the developer. The Planned Development will not jeopardize the public health, safety, and morals.
- B. The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed Development and the streets and driveways will be adequate to serve the residents or occupants of the proposed Development. Traffic control signals will be provided without expense to New Madison when the County Engineer determines that such signals are required to prevent traffic hazards or congestion in adjacent streets.
- C. The Development will not impose an undue public burden on services and facilities, such as fire and police protection.
- D. The Development Plan contains such proposed covenants, easements, and other provisions relating to the proposed development standards, as reasonably are required for the public health, safety, and morals.
- E. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses and any part of a Planned Development not used for structures, parking and loading areas, or accessways shall be landscaped or otherwise improved.

SECTION 1103 DEVELOPMENT STANDARDS

In addition to other provisions of this Resolution, the Development Plan must comply with the following:

1103.01 AREA REQUIREMENTS

The minimum land area required for a Planned Residential District shall be five (5) acres.

1103.02 RESIDENTIAL DENSITY

The maximum density shall not exceed five (5) dwelling units per acre.

1103.03 SITE PLANNING

- A. The physical character of the site shall be suitable for development in the manner proposed without hazards to persons or property, on or off the site, from probability of flooding, erosion, subsidence, or slipping of the soil or other dangers, annoyances, or inconveniences.
- B. The site must have direct access to a major street without creating traffic on minor residential streets outside the district. It must either be so located in relation to utilities and public facilities existing or to be developed that no additional public expense will be involved.
- C. Efficient, safe, convenient, and harmonious grouping of structures, uses, and facilities.
- D. Appropriate relation of space inside and outside buildings to intended uses and structural features.
- E. Vehicular access to streets and pedestrian ways.
- F. Protection of pedestrian and traffic visibility.
- G. Location of common open space.
- H. Screening of off-street parking areas, and service areas for loading and unloading vehicles, and areas for storage and collection of trash and garbage.
- I. Where the Planned Residential District abuts another Residential District, a permanent open space of at least twenty-five (25) feet wide shall be provided along the property lines. A ten (10) foot depth along property lines shall be maintained in landscaping, and no driveway or off-street parking shall be permitted in such area.

1103.04 PARKING

Unless addressed in the application for planned development, parking shall be required as set forth in SECTION 410 - OFF-STREET LOADING REGULATIONS and SECTION 411 - OFF-STREET PARKING .

SECTION 1104 PROCEDURE

The following procedure shall be followed in each application for Planned Development.

1104.01 SUBMISSION OF APPLICATION

- A. The owner(s) or lessee(s) of a tract of land may request that the Zoning District Map be amended to include such tract within a "PURD". Each request shall be processed, noticed, and heard in the manner prescribed in ARTICLE 15 - VILLAGE PLANNING COMMISSION DISTRICT CHANGES AND ORDINANCE AMENDMENTS.
- B. The applicant is encouraged to engage in informal consultations with the consultant to the Village Planning Commission prior to preparing plans, it being understood that no statement or representation by the consultant shall be binding upon Planning Commission or upon any zoning body.
- C. An application for a Planned Development may be processed, noticed, and heard by the Planning Commission concurrently with an application for a proposed subdivision or re-subdivision of the same pursuant to the Subdivision Regulation.

1104.02 SUBMISSION OF PRELIMINARY DEVELOPMENT PLAN

Ten (10) copies of a Development Plan shall be submitted with the application and shall include in text and map form:

- A. A survey of the tract that is to be developed showing existing features of the property including streets, easements, utility lines, existing land use, general topography, and physical features.
- B. A site plan showing the location of arrangement of all existing and proposed structures, the proposed traffic circulation pattern within the Development, the areas to be developed for parking, the points of ingress and egress including access streets where required, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any, including parks, playgrounds, school sites, and recreational facilities.
- C. A statement of the residential density, the proposed total gross floor area, and the percentage of the development that is to be occupied by structures.
- D. Preliminary sketches of the proposed structures and landscaping.

- E. When a Planned Development is to be constructed in stages or units, a schedule for the development of such stages or units shall be submitted. No such stage or unit shall have a density that exceeds by more than twenty (20) percent the proposed density of the entire Planned Development. When a Planned Development provides for common open space, the total area of common open space provided at any stage of development shall, at a minimum bear the same relationship to the total open space to be provided in the entire Planned Development as the stages or units completed or under development bear to the entire Planned Development.
- F. Evidence that the applicant has sufficient control over the tract to affect the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed Development.
- G. When a Planned Development includes provisions for a common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space and recreational facilities. If it is proposed that such open space be owned and/or maintained by an entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws, guidelines, and regulations of such entity shall be submitted.
- H. Copies of any restrictive covenants that are to be recorded with respect to property included in the Planned Development District.

1104.03 ACTION BY THE VILLAGE PLANNING COMMISSION

The Village Planning Commission shall hold a public hearing on the Development Plan as provided by ARTICLE 15 - VILLAGE PLANNING COMMISSION DISTRICT CHANGES AND ORDINANCE AMENDMENTS of this Regulation.

Such public hearing shall consider all aspects of the Development Plan, including all Proposed stages and/or units of development. Within thirty (30) days after the last public hearing on such plan, the Commission shall prepare and transmit to the applicant specific findings of fact with respect to the extent to which the Development Plan complies with the standards set out in the Article, together with its recommendations to the Village Council with respect to the action to be taken on the Development Plan. The Commission may recommend disapproval, approval, or approval with amendments, conditions, or restrictions. Copies of the findings and recommendations of the Commission shall be available to any other interested persons.

1104.04 FINAL DEVELOPMENT PLAN

Prior to the Village Council's public hearing, the applicant shall submit a reproducible final development plan, showing the information on the development plan and any additional information that the Planning Commission requires to be shown to properly describe the Planned Development that was approved and agreed to by the applicant. This plan shall be made part of the Regulation when the Planned Development is approved by the Village Council.

1104.05 ACTION BY THE VILLAGE COUNCIL

The Village Council shall hold a public hearing on the Development Plan as provided by ARTICLE 15 - VILLAGE PLANNING COMMISSION DISTRICT CHANGES AND ORDINANCE AMENDMENTS of this Regulation.

If the application is granted, the area of land involved shall be re-designated as a "PURD" by resolution and such resolution shall incorporate the plan, including any condition or restriction that may be imposed by the Village Council.

1104.06 SUBDIVISION PLAT REQUIRED

No building permits shall be issued for any structure in any portion of a Planned Development unless and until the final subdivision plat for that portion has been approved and recorded.

1104.07 EXPIRATION DATE FOR DEVELOPMENT PLAN APPROVAL

A. Single-Stage Development Plans

The approval of the Development Plan may be revoked and the land shall be rezoned unless within two (2) years the subdivision plot shall have been recorded in the records of the Darke County Recorder.

B. Multi-stage Development Plans

When the recording of the subdivision plot for the successive stages falls more than two (2) years behind the schedule submitted under SECTION 1104.01 - SUBMISSION OF APPLICATION, the Development Plan may be revoked as to that portion of the tract for which no subdivision plat shall have been recorded; and that portion of the tract shall be rezoned.

1104.08 EXTENSION OF TIME OR MODIFICATION

An extension of the time limit or the modification of the approved Development Plan may be amended by the joint approval of the Village Planning Commission and Village Council. However, minor adjustments in the final plan, resulting from 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 configuration, parking area locations, or other similar project particulars may be authorized in writing by the Zoning Inspector.

ARTICLE 12

EXISTING AND NON-CONFORMING USES

SECTION 1200 CONFORMANCE REQUIRED

Except as hereinafter specified, no land, building, structure, or premises shall hereafter be used, and no building or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the district in which it is located.

SECTION 1201 NON-CONFORMING VACANT LOTS

1201.01 SINGLE NON-CONFORMING VACANT LOTS IN RESIDENTIAL DISTRICT

In any district in which single-family dwellings are permitted, a single-family dwelling may be erected on any single lot of record as of the effective date of adoption or amendment of this Regulation.

Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This shall apply even though such lot fails to meet the yard area and setback requirements, in which case the following regulations shall apply:

- A. The sum of side yards on any such lot of record shall be at least twenty-five (25) percent of the lot and in no case shall either side yard be less than (10) percent of the lot width.
- B. Both the front and rear yard depths shall be a minimum of twenty (20) percent each of the lot depth.

1201.02 NON-CONFORMING LOTS OF RECORD IN COMBINATION

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Regulation and if all or part of the lots do not meet the requirements for lot width and area, the land involved shall be considered to be an undivided parcel for the purpose of this Regulation; and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Regulation, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Regulation.

1201.03 NON-CONFORMING VACANT LOTS IN OTHER DISTRICTS

In any district, other than a Residential District, a building designed for any permitted use in such district may be erected on any lot of official record as of the effective date of the Zoning Regulation, provided that:

Such building shall comply with all regulations applicable in the district in which the lot in question is located; provided, however, the width of any required side yard need not be greater than that derived by applying the following equation, where “X” equals the required side yard width:

$$\frac{X}{\text{actual lot width}} = \frac{\text{Minimum side yard required by district regulations}}{\text{Minimum lot width required by district regulations}}$$

SECTION 1202 NON-CONFORMING STRUCTURES

1202.01 CONTINUATION

Any structure which is devoted to a use which is permitted in the zoning district in which it is located on a lot which does not comply with the applicable lot size requirements and/or development standards may be continued, so long as it remains otherwise lawful, subject to the restrictions of SECTIONS 1202.02 - REPAIR AND MAINTENANCE through 1202.04 - EXTENSION AND ENLARGEMENT.

Any lawful existing non-conforming use of part or all of a structure or any lawfully existing non-conforming use of land, not involving a structure, may be continued, so long as otherwise lawful, subject to the restrictions of SECTIONS 1202.02 - REPAIR AND MAINTENANCE through 1202.09 - NON-CONFORMING ACCESSORY USES.

1202.02 REPAIR AND MAINTENANCE

- A. Work may be done on ordinary maintenance and repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing; provided, however, that this paragraph A shall not be deemed to authorize any violation of SECTIONS 1202.03 - STRUCTURAL ALTERATION through 1202.09 - NON-CONFORMING ACCESSORY USES.
- B. Nothing in this Regulation shall be deemed to prevent the strengthening or restoring to a safe condition of a building or other structure (other than a damaged or destroyed building or other structure subject to the provisions of SECTION 1202.05 - DAMAGE

OR DESTRUCTION of this section) in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.

- C. Non-conforming residential buildings in a Business or Industrial District may be maintained, repaired, improved, modernized, or enlarged; provided, however, that no increase in number of dwelling units shall be permitted.

1202.03 STRUCTURAL ALTERATION

No structural alteration shall be made unless the entire building or other structure and the use thereof shall thereafter conform to the regulations of the district in which such structure is located, except as provided in SECTION 1202.04 - EXTENSION AND ENLARGEMENT, SECTION 1202.05 - DAMAGE AND DETRUSTION, and SECTION 1202.07 - CHANGE.

1202.04 EXTENSION AND ENLARGEMENT

The Board of Zoning Appeals may permit a non-conforming building or structure to be extended, expanded, enlarged, or increased in intensity, subject to the following conditions:

- A. A non-conforming use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on the effective date of this Regulation.
- B. The Board may permit either an expansion of a non-conforming building or structure, or a substitution of a non-conforming use in such a building or structure, but not both.
- C. A non-conforming building or structure may be extended or enlarged upon the lot occupied by such building on the effective date of this Regulation or on an adjoining lot, provided such lot was under the same ownership as the lot in question on the effective date of this Regulation. Such non-conforming building may be enlarged or extended to an extent not exceeding twenty-five (25) percent of the gross floor area of such non-conforming structure or building lawfully existing at the time of the adoption of this Regulation.
- D. The extension or enlargement of a non-conforming building or structure may not occupy ground space suitable and otherwise available for meeting the off-street parking requirements of this Regulation.
- E. A non-conforming use of land may not be extended, enlarged, or increased in intensity.

- F. Nothing contained in this section shall in any way prohibit a non-conforming use from acquiring additional off-street parking space.
- G. Application for an extension or enlargement in accordance with paragraphs A through F shall be noticed and heard in the manner prescribed for appeals in SECTION 1603 - PROCEDURE FOR ADMINISTRATIVE APPEAL hereof.

1202.05 DAMAGE OR DESTRUCTION

In the event that any building or other structure that is devoted in whole or in part to a non-conforming use is damaged or destroyed, by any means, to such an extent that the cost of restoration to the condition in which it was before such damage or destruction exceeds fifty (50) percent of the current replacement cost of the entire building or other structure, exclusive of foundation, such building or other structure shall not be restored unless such building or other structure and the use shall thereafter conform to the regulations of the district that it is located. Moreover, even if such damage is fifty (50) percent or less, no repair or restoration shall be made unless a building permit is obtained, and restoration is actually begun within six (6) months after the date of such partial destruction.

1202.06 MOVING

No structure devoted in whole or in part to a non-conforming use shall be moved to any other location on the same lot or any other lot unless the entire structure and the use thereof shall thereafter conform to the regulations of the district which it will be located after being so moved. Moreover no non-conforming land use shall be relocated, in whole or in part, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.

1202.07 CHANGE

The Board of Zoning Appeals may permit a substitution for a non-conforming use in a building or structure lawfully existing at the time of the adoption of this Regulation, subject to the following conditions:

- A. The Board may permit either an expansion of a non-conforming building or structure, or a substitution of a non-conforming use, but not both.
- B. A non-conforming use of land shall not be changed.
- C. Application for a substitution in accordance with paragraph A shall be noticed and heard in the manner prescribed for appeals in SECTION 1603 - PROCEDURE FOR ADMINISTRATIVE APPEAL hereof.

1202.08 DISCONTINUANCE

- A. Discontinuance of non-conforming use of land: In the event that operation of a non-conforming use of land is voluntarily discontinued for a period of two (2) years, such non-conforming use shall not thereafter be re-established and any subsequent use or occupancy of such land shall conform to the regulations of the district in which it is located.

- B. Discontinuance of non-conforming use of land: In the event that operation of a non-conforming use of all or part of a building or other structure is voluntarily discontinued for a period of two (2) years, such non-conforming use shall not thereafter be re-established and any subsequent use or occupancy of such building or other structure shall conform to the regulations of the district in which it is located.

1202.09 NON-CONFORMING ACCESSORY USES

No non-conforming accessory use shall continue after the principal use to which it is accessory has been discontinued.

ARTICLE 13

SIGNS

SECTION 1300 GENERAL PROVISIONS

Signs shall be designed, erected, altered, reconstructed, and maintained in accordance with the general requirement standards of this article.

A. Setback

All signs shall be setback ten (10) feet from the right-of-way, as shown on the Darke County Engineer's Official Records.

B. Sign Area, How Measured

The entire area within a single perimeter enclosing the extreme limits of writing or representation of all display surfaces or sides. The necessary supports or uprights on which the sign is placed are excluded.

C. Design Standards

Signs shall be designed as to be similar in character with regard to materials, color, and size to conforming signs designed or located on the same building and on adjoining buildings in order to equalize the attention they are made to attract, and to produce an overall unified effect.

SECTION 1301 EXEMPTED SIGNS

The following signs are not subject to the provision of this Regulation:

- A. Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing, and signs of public service companies for the purpose of safety.
- B. Flags, emblems, insignia of any governmental agency.
- C. Commemorative plaques placed by a recognized Historical Society or agency.
- D. Signs within a stadium, open-air theatre, shopping center, arena, or other use, which signs can be viewed only by persons within such uses.
- E. Directional signs.

SECTION 1302 PROHIBITED SIGNS

- A. All blinking, flashing, or intermittent lighting is prohibited.
- B. Pennants, banners, streamers, spinning, and similar type devices are prohibited.
- C. No sign shall be attached or otherwise applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines, or other unapproved supporting structure, or otherwise placed in the public right-of-way.

SECTION 1303 TRAFFIC HAZARDS

- A. No sign shall be erected at or near any intersection of any streets, or any railway and any street, in such a manner as to obstruct free and clear vision, or at any location whereby reason of position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device, or which makes use of the words "stop", "look", "danger", or other word, phrase or symbol in such manner as to interfere with, mislead, or confuse traffic.
- B. Light sources for illuminated signs shall not be of such brightness as to constitute a hazard to pedestrian or vehicular traffic. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.
- C. No rotation beam, beacon, or flashing illumination resembling an emergency light shall be used in connection with any sign display, nor shall any illuminated device designed to attract attention of users of the street be permitted unless it is an integral part of the sign as herein defined.
- D. Illuminating signs shall be directed or shaded so as not to interfere with the vision of persons on the adjacent highways or adjacent property.

SECTION 1304 RESPONSIBILITY, MAINTENANCE, AND REMOVAL

- A. The owner of the sign shall be held responsible for the maintenance, repair, and upkeep of his sign.
- B. If any sign reaches a state of disrepair and is deemed unsightly or unsafe by the Zoning Inspector and is not properly renovated, it shall be condemned and an order issued for removal immediately at the expense of the sign owner or building owner.

- C. The building owner shall be held responsible for the removal and dismissal of all abandoned signs, including painted wall signs.
- D. Signs that are no longer functional, serve the purpose for which they were intended, or are abandoned shall be removed or relocated in compliance with the provision of this Regulation within thirty (30) days following such malfunction.

SECTION 1305 NON-CONFORMING

- A. A sign not conforming with the regulations of this or subsequent amendments shall be deemed to be legal non-conforming. Legal conforming signs may be maintained and structural parts repaired or restored to a safe condition until January 1, 1980; unless the sign is damaged to more than one-half (1/2) of its replacement value, in which case it shall be removed. Effective January 1, 1980, existing signs shall conform to this article.
- B. Any non-conforming sign which is altered, relocated, or replaced shall comply with all provisions of this Regulation.

SECTION 1306 SIGNS NEAR "R" DISTRICTS

No sign shall be located in a "B" or "I" District within one-hundred (100) feet of any "R" District in such a manner as to be primarily viewed from "R" zoned property, or from any streets or alleys within an "R" District.

SECTION 1307 SIGNS IN AGRICULTURAL, RESIDENTIAL, AND "PURD" DISTRICTS

- A. Signs shall neither exceed the height of the principal building on that zoning lot nor the height requirements of that district, whichever is less.
- B. Identification signs for:
 - 1. Residences shall not exceed two (2) square feet.
 - 2. Other permitted uses shall not exceed fifty (50) square feet.
- C. Real estate, construction, and other approved temporary signs shall not exceed twelve (12) square feet.

SECTION 1308 SIGNS IN BUSINESS AND INDUSTRIAL DISTRICTS

- A. Signs shall neither exceed the height of the principal building on that zoning lot nor the height requirements of that district, whichever is less.
- B. Construction signs shall be considered as temporary signs, shall not be illuminated, and shall be limited to four (4) square feet in area per contractor.
- C. Directional signs shall be permitted as required and limited to two (2) square feet in area per face.
- D. Identification signs shall not exceed one (1) square feet of sign area per linear foot of frontage.
- E. One (1) real estate sign per frontage shall be allowed, not to exceed one-hundred (100) square feet in total sign area.
- F. One (1) temporary sign per frontage shall be allowed not to exceed thirty-two (32) square feet in area.
- G. Warning signs shall be permitted as required, not to exceed thirty-two (32) square feet per sign.

ARTICLE 14

ENFORCEMENT PENALTIES

SECTION 1400 ENFORCEMENT BY THE ZONING INSPECTOR

There is hereby established the Office of the Zoning Inspector. The Village Council, after reviewing recommendations from the Planning Commission, shall appoint a Zoning Inspector, together with such assistants as the Council deems necessary, fix the compensation for said position, and make disbursement thereof. It shall be the duty of the Zoning Inspector, as provided under *Section 713.02 et. seq.* of the Revised Code of the State of Ohio, to enforce this Regulation in accordance with the administrative provisions of this Regulation. For all departments, officials, and public employees of Darke County which are vested with the duty or authority to issue certificate or license for any use, building, or purpose; if the same is in conflict with the provisions of this Regulation, then any certificate or license issued in conflict with the provisions of this Regulation shall be null and void.

SECTION 1401 ZONING CERTIFICATES

Until a Zoning Certificate has been obtained from the Zoning Inspector,

- A. The construction, building, moving, remodeling, or reconstruction of any building or structure shall not be commenced.
- B. The improvement of land preliminary to any use of such land shall not be commenced.
- C. The use of land, buildings, or structures for temporary and accessory uses and home occupations shall not be commenced.
- D. A certificate pertaining to the temporary or permanent use of land, buildings, or structures shall not be issued by any official, officer, employee, department, or board of the Village or Darke County.

1401.01 APPLICATION FOR ZONING CERTIFICATE

Each application for a zoning certificate shall be accompanied by a plan in duplicate drawn to a scale, one copy of which shall be returned to the owner upon approval or disapproval. The plan shall show the following:

- A. The actual dimensions of the lot, including easements.
- B. The exact size and location of all buildings existing on the lot.

- C. The proposed new construction.
- D. The existing and intended use of all parts of the land or buildings.
- E. Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Zoning Regulation.

1401.02 ISSUANCE OF ZONING CERTIFICATES

Zoning certificates shall normally be issued or refusal thereof given within five (5) working days after the date of application. Written notice of such refusal and reason thereof shall be given to the applicant.

1401.03 PERIOD OF VALIDITY

A zoning certificate shall become null and void six (6) months after the date on which it is issued unless within such six (6) months period construction, building, moving, remodeling, or reconstruction of a building or structure is commenced or use is commenced.

SECTION 1402 VIOLATIONS - REMEDIES

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of this Regulation or any amendments or supplements thereto, the Board of Village Council, the Zoning Inspector, or Building Inspector, or any adjacent or neighboring property owner would be especially damaged by such violation, in addition to other remedies provided by law, may institute an action for injunction mandamus, abatement, or any other appropriate action, proceedings to prevent, enjoin, abate, or remove such illegal location, erection, construction, enlargement, change, maintenance, or use.

SECTION 1403 VIOLATIONS AND PENALTIES

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or land in violation of any regulation in or any provisions of this Regulation or any amendment or supplement thereto adopted by the Board of County Commissioners of Darke County under *Section 713.06 et. seq.* of the Revised Code of the State Ohio. Any person, firm, or corporation violating any regulation in any provision of this Regulation or any amendment or supplement thereto shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one-hundred (\$100) dollars. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues shall be deemed a separate offense.

SECTION 1404 FEES

Any application under this Regulation for a zoning certificate variance, conditional use permit, sign permit, planned development, amendment, or filing of a notice of appeal shall be accompanied by such fee as shall be specified from time to time by resolution of the Village Council. There shall be no fee, however, in the case of applications filed by the Village Council or the Planning Commission.

The fees shall be in addition to the regular building permit fees and any other fees that may be imposed under applicable ordinance of Village Council. The fees imposed by this Regulation are only intended to defer in part the costs involved in such applications such as publishing and/or posting, and mailing the notices of the hearing or hearings. Such fees are not refundable regardless of the outcome of the application.

ARTICLE 15

VILLAGE PLANNING COMMISSION, DISTRICT CHANGES, AND REGULATION AMENDMENTS

SECTION 1500 VILLAGE PLANNING COMMISSION

1500.01 ORGANIZATION

The Village Council, proceeding under *Section 713.06 to 713.15* inclusive of the Ohio Revised Code, shall create and establish a Village Planning Commission. The Commission shall be composed of five (5) members who reside in the Village of New Madison, to be appointed by the Village Council according to Section 713.01 of the Revised Code of the State of Ohio. The Planning Commission shall consist of the Mayor, one member of Council to be elected thereby for the remainder of their term, and three citizens of the village to be appointed by the Mayor for terms of six years each; except that the term of one of the members of the first commission shall be four years and one for two years. All such members shall serve without compensation.

1500.02 REMOVAL

Each member shall serve until his successor is appointed and qualified. Members of the Planning Commission shall be removable in accordance with *Section 713.04*, Ohio Revised Code.

SECTION 1501 DISTRICT CHANGES AND REGULATION AMENDMENTS

Amendments or supplements to the Zoning Regulation shall be affected as provided by *Section 713.02 et. seq.* of the Revised Code of the State of Ohio.

1501.01 PROCEDURE FOR DISTRICT CHANGES AND REGULATION AMENDMENTS

Application for amendments to the Zoning Regulation shall be filed in accordance with the filing procedures adopted by the Village Planning Commission adapted from *Section 713.12*, Ohio Revised Code, and summarized as follows:

- A. An amendment, supplement, reclassification, or change may be initiated by the Planning Commission or Council on its own motion or by a verified application of one (1) or more of the owners or lessees of property within the area proposed to be changed or affected by this Regulation.

- B. Once the application is filed and fees paid, the Commission shall set a date for a public hearing which shall not be less than twenty (20) nor more than forty (40) days from the filing date. Notice of the hearing shall be given in a newspaper of general circulation at least fifteen (15) days before the hearing date.
- C. If the proposed amendment or supplement requests rezoning or redistricting of ten (10) or less parcels of land as listed on the tax duplicate, written notice of the hearings shall be mailed to property owners within five-hundred (500) feet of the proposed area. The failure of delivery of such notice shall not invalidate any such amendment or supplement.
- D. The Village Planning Commission shall, within thirty (30) days after such hearing, recommend the approval or denial of the proposed amendment or supplement or the approval of some modification thereof and submit such recommendation to Council.
- E. Council shall, upon receipt of such recommendation, set a time for public hearing on the proposal, which date shall not be more than thirty (30) days from the date of the receipt of such recommendation from the Village Planning Commission. Notice of the hearing shall be given in a newspaper of general circulation at least fifteen (15) days before the hearing date.
- F. Within twenty (20) days after such public hearing, the Village Council shall either adopt or deny the recommendations of the Planning Commission or adopt some modification thereof. The Village Council may deny or modify the Planning Commission recommendation, but it shall require three-quarters vote of the Full Council.
- G. Such amendment or supplement adopted by the Village Council shall become effective thirty (30) days after the adoption of the amendment or supplement, unless there is presented to the Council a petition, signed by a number of qualified voters residing in the incorporated area of New Madison equal to not less than eight (8) percent of the total vote cast for all candidates for Governor in such area at the last preceding general election at which a Governor was elected, requesting the Village Council to submit the amendment or supplement to the electors of such area for approval or rejection at the next primary or general election.
- H. No amendment or supplement for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

1501.02 WRITTEN APPLICATION

Two (2) copies of a provided application form shall be filed with the Village Planning Commission at their public office.

A. Description of Change

The application shall include the following information:

1. A description or statement of the present and proposed provisions of this Zoning Regulation or the boundaries of the Zoning District Map.
2. A description sufficient to identify the property, including a reference of the volume and page of the last recorded deed.
3. The proposed use of the property.
4. A statement of the necessity or desirability of the proposed use to the neighborhood or community.
5. A statement of the relationship of the proposed use to the neighborhood or community.
6. A list of owners of property within three-hundred (300) feet from such area to be rezoned. Such list shall be in accordance with the Darke County Auditor's current tax list.
7. Such other information regarding the property proposed use, or surrounding area as may be pertinent to the application or required for appropriate action by the Village Planning Commission.

B. Plot Plan

The application shall be accompanied by two (2) copies of a plot plan, prepared by a registered engineer, architect, or surveyor of the State of Ohio, drawn to an appropriate scale, clearly showing the following:

1. The boundaries and dimensions of the lot.
2. The approximate size and location of existing and proposed structures on the land to be rezoned if desired by the applicant.
3. The proposed use of all parts of the lot and structures, including accessways, walks, off-street parking and loading spaces, and landscaping if desired by the applicant.

ARTICLE 16

BOARD OF ZONING APPEALS

SECTION 1600 APPOINTMENT

1600.01 ESTABLISHMENT

A Board of Zoning Appeals for the Village is hereby created. Such Board shall consist of an odd number of members, no less than three (3), to be appointed by the Village Council who shall be residents of the Village. The terms of all members shall be of such length and so arranged that the year of one (1) member shall expire each year. Each member shall serve until his/her successor is appointed and qualified.

1600.02 REMOVAL

Members of the Board shall be removable for non-performance of duty, misconduct in office, or other cause by the Village council on written charges having been filed with the Council and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least ten (10) days prior to the hearing, either personally or by registered mail, or by leaving the same at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the Village Council and shall be for the un-expired term.

SECTION 1601 ORGANIZATION

The Board of Zoning Appeals shall organize and adopt rules in accordance with the provisions of this Zoning Regulation. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or, in his/her absence, the Acting Chair, may administer oaths; and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public.

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Village Council and shall be a public record. A copy of the decision for each case shall be given to the applicant and the Planning Commission.

Two (2) members of the Board shall constitute a quorum. The Board shall act by resolution, and the concurring vote of two (2) members of the Board shall be necessary to reverse an order or determination of the Zoning

Inspector or to decide in favor of any applicant in any matter over which the Board has original jurisdiction under this Regulation, or to grant any variance from the requirements stipulated in this Regulation.

SECTION 1602 JURISDICTION

The Board of Zoning Appeals shall have the following jurisdiction:

A. Administrative Appeal

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Inspector in the enforcement of this Zoning Regulation.

B. Variances

1. To authorize, upon appeal, in specific cases, such variance from the terms of this Zoning Regulation as will not be contrary to the public interest, where, owing to special conditions of the land, i.e., an irregular shaped lot having the required area, a lot of exceptional topography, or an exceptionally narrow, shallow, or irregular lot existing and of record at the time of the passage of this Zoning Regulation, a literal enforcement of the provisions of this Zoning Regulation may result in unnecessary hardship. In granting such variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the Zoning District in conformity with this Zoning Regulation.

2. Variances on Existing Buildings and Structures

To grant the projection of a building or structure existing at the time of the adoption of this Regulation into a required yard to secure an addition to the building or structure and arrangement. Such projection shall not exceed one-third (1/3) of the required depth or width of the required yard. In granting such variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the Zoning District in conformity with this Zoning Regulation.

THIS SECTION SHALL NOT BE CONSTRUED TO PERMIT VARIANCES WHICH SHALL, IN EFFECT, AMEND THE USE PROVISIONS IN THIS ZONING REGULATION.

C. Conditional Use

To grant conditional zoning certificates for the use of land, buildings, or other structures, if such certificate for specific uses are provided for in the Zoning Regulation.

D. Non-conforming Uses

Non-conforming uses as provided in ARTICLE 12 - EXISTING AND NON-CONFORMING USES of this Regulation.

SECTION 1603 PROCEDURE FOR ADMINISTRATIVE APPEAL

1603.01 AUTHORIZATION

An appeal from a decision of the Zoning Inspector with request to the interpretation or application of this Regulation may be taken to the Board of Zoning Appeals by any person aggrieved, or his agent, or by any officer of the County affected by such decision of the Zoning Inspector.

1603.02 NOTICE OF APPEAL

Appeals to the Board shall be filed within twenty (20) days after the decision of the Zoning Inspector by filing a written notice of appeal with the Zoning Inspector and with the Board of Zoning Appeals.

The notice of appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Zoning Inspector shall forthwith transmit to the Board all of the papers constituting the record upon which the decision being appealed was based.

1603.03 HEARING ON APPEAL

The Board shall select a reasonable time and place for the hearing of an appeal, which shall be held not less than fifteen (15) nor more than forty-five (45) days after receipt of the application and shall give at least ten (10) days written notice thereof to the owners of property within three-hundred (300) feet of the applicant's property, as they shall appear on the notice of appeal.

In addition, public notice of such hearings as to the time, place, date, and subject of the hearing shall be published in a newspaper of general circulation at least ten (10) days prior to the date of the hearing. Any party in interest may appear and be heard at the hearing in person, by agent, or by attorney.

1603.04 DECISION ON APPEALS

The Board shall have all the powers of the Zoning Inspector with respect to such decision. The concurring vote of a majority of the members of the Board shall be necessary to reverse or modify any decision of the Zoning Inspector under this Regulation. The Board shall render a written decision on the application without unreasonable delay after the close of a hearing and, in all cases, within thirty (30) days after the close of the

hearing. A copy of the decision and finding of fact shall be sent to the applicant, the Village Council and the Planning Commission.

SECTION 1604 PROCEDURE FOR OBTAINING A VARIANCE

Nature of Variance

A variance is permission to deviate in a specific manner from the terms of the Zoning Regulation where, owing to special conditions of the land itself, a literal enforcement of the provisions of this Zoning Regulation will result in unnecessary hardship and provided that only deviations from development standards shall be permitted.

1604.01 AUTHORIZATION

The Board of Zoning Appeals may authorize variances from the terms of this Regulation as stated in SUBSECTION 1602 (B) - VARIANCES when the Board has made findings of fact, based upon the standards set out in SUBSECTION 1604.05 - STANDARDS FOR VARIANCES of this Regulation.

1604.02 APPLICATION FOR VARIANCE

An application for a variance, together with an application for a Zoning Certificate, shall be filed with the Zoning Inspector, who shall forward without delay a copy of each to the Secretary of the Board. The application shall contain the following:

A. Description of Property and Nature of Variance

1. The nature of the variance, i.e., including the specific provisions of the Zoning Regulation from which the variance is requested.
2. A description sufficient to identify the property, including a reference to the volume and page of the last recorded deed.
3. A statement of the special circumstances or conditions applying to the land or structure and not applying generally throughout the Zoning District.
4. A statement showing that the special conditions and circumstances do not result from the actions of the applicant.
5. A statement showing that the granting of the application is necessary to the preservation and enjoyment of substantial property rights.
6. Such other information regarding the appeal as may be pertinent or required for appropriate action by the Board of Zoning Appeals.

B. Plot Plan

The application shall be accompanied by three (3) copies of a plot plan drawn to the appropriate scale showing the following:

1. The boundaries and dimensions of the lot.
2. The size and location of existing and proposed structures.
3. The proposed use of all parts of the lot and structures, including accessways, walks, off-street parking and loading spaces, and landscaping.
4. The relationship of the requested variance to the standards set by the Zoning Regulation.
5. The use of land and location of structures on adjacent property.

1604.03 INFORMATION FOR COMMISSION

The Zoning Inspector shall file one copy of the application and plot plan with the Village Planning Commission within three (3) days after the filing of such application by the applicant, for informational purposes.

1604.04 HEARING ON VARIANCE

A hearing on the application shall be held by the Board and notice thereof given, as specified under SECTION 1603.03 - HEARING ON APPEAL of this Regulation.

1604.05 STANDARDS FOR VARIANCES

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

- A. The variance requested arises from special conditions of, or involving, the property which are unique, that is, a situation which is not ordinarily found in the same zoning district and that the situation results from the enforcement of this Regulation and not by an action or actions of the property owner, the applicant, or any other person who has had control of the property.
- B. The strict application of the provisions of this Regulation from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
- C. The variance desired will not adversely affect the public health, safety, and morals.

D. The variance desired will not compromise the general spirit and intent of this Regulation.

1604.06 CONDITIONS AND RESTRICTIONS

In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to comply with the standards set out in SECTION 1604.05 - STANDARDS FOR VARIANCES of this Regulation to reduce or minimize potentially injurious effects of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of this Regulation.

1604.07 DECISION ON VARIANCE

The Board shall have all the powers of the Zoning Inspector with respect to such decision. The concurring vote of a majority of the members of the Board shall be necessary to approve a variance under this Regulation. The Board shall render a written decision on the application without unreasonable delay after the close of a hearing and, in all cases, within thirty (30) days after the close of the hearing. A copy of the decision and findings of fact shall be sent to the applicant, the Village Council and the Planning Commission.

1604.08 PERIOD OF VALIDITY

A variance granted by the Board shall terminate at the end of six (6) months from the date on which the Board grants the variance, unless within such six (6) month period a zoning certificate is obtained.

SECTION 1605 PROCEDURE FOR OBTAINING A CONDITIONAL USE CERTIFICATE

1605.01 AUTHORIZATION

Specifically listed Conditional Uses are provided within the Zoning District regulations in recognition that such uses, although often desirable, will more intensely affect the surrounding area in which they are located than the Permitted Use of such Zoning District.

The intent of the procedure for authorizing a Conditional Use is to set forth in the development standards and criteria for locating and developing a Conditional Use in accordance with the nature of the surrounding area conditions of development with regard to appropriate plans.

1605.02 APPLICATION FOR CONDITIONAL USE

Any person owning or having an interest in property may file an application to use such property for one or more of the Conditional Uses provided for by this Regulation in the Zoning District in which the property is situated. An application for a Conditional Use Certificate shall be filed in duplicate with the Zoning Inspector, who shall forward without delay a copy to the Secretary of the Board.

The application for a Conditional Use shall contain the following:

A. Description of Property and Intended Use.

1. A description sufficient to identify the property, including a reference of the volume and page of the last recorded deed.
2. The proposed use of the property.
3. A statement of the necessity or desirability of the proposed use to the neighborhood or community.
4. A statement of the compatibility of the proposed use to adjacent property and land use.
5. Such other information regarding the property, proposed use, or surrounding areas as may be pertinent to the application or required for appropriate action by the Board of Zoning Appeals.

B. Plot Plan

The application shall be accompanied by three (3) copies of the plot plan, drawn to an appropriate scale, clearly showing the following:

1. The boundaries and dimensions of the lot.
2. The size and location of existing and proposed structures.
3. The proposed use of all parts of the lots and structures, including accessways, walks, off-street parking and loading spaces, and landscaping.
4. The relationship of the proposed development to the development standards in the existing Zoning District.
5. The use of land and location of structures on adjacent property.

1605.03 INFORMATION FOR VILLAGE PLANNING COMMISSION

The Zoning Inspector shall file one copy of the application and plot plan with the Commission within three (3) days after the filing of such application by the applicant, for informational purposes.

1605.04 HEARING ON CONDITIONAL USE

A hearing on the application shall be held by the Board and notice thereof given, as specified under SECTION 1603.03 - HEARING ON APPEAL of this Regulation.

1605.05 STANDARDS FOR CONDITIONAL USE

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

- A. The proposed Conditional Use will comply with all applicable regulations of this Regulation including lot size requirements, development standards, and use limitations.
- B. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- C. 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 in public streets and alleys.
- D. All necessary permits and license for the use and operation of the Conditional Use have been obtained or evidence has been submitted that such permits are obtainable for the proposed Conditional Use on the subject property.
- E. All exterior lights for artificial open-air illumination are so shaded as to avoid casting direct light upon any property located in a Residential District.
- F. 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 giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
- G. 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.

H. The Conditional Use desired will not adversely affect the public health, safety, and morals.

1605.06 CONDITIONS AND RESTRICTIONS

In granting a Conditional Certificate, the Board 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 SECTION 1605 - PROCEDURE FOR OBTAINING A CONDITIONAL USE CERTIFICATE to reduce or minimize potentially injurious effects of such Conditional Use upon other property in the neighborhood and to carry out the general purpose and intent of this Regulation.

1605.07 PERIOD OF VALIDITY

A Conditional Use Certificate granted by the Board shall terminate at the end of one (1) year from the date on which the Board grants the Conditional Use, unless within the one (1) year period a building permit is obtained and the erection or alteration of a structure is started.

The Conditional Use Certificate will suffice as the Zoning Certificate required by SECTION 1401 - ZONING CERTIFICATES of this Regulation.

ARTICLE 17

WHEN EFFECTIVE: VALIDITY

SECTION 1700 WHEN EFFECTIVE

This Regulation shall be in effect in all portions of the Village of New Madison at the earliest date allowed by law.

SECTION 1701 VALIDITY

If any article, section, subsection, paragraph, sentence, or phrase of the Regulation is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Regulation.