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CHAPTER 1
GENERAL PROVISIONS

1.00 TITLE - This Code shall be known and referred to as the "Zoning Code of the Village of South Russell, Ohio".

1.01 PURPOSE - This Code is passed to promote and protect the public health, safety, convenience, comfort, prosperity and general welfare by (1) regulating the use of structures and land for residential, business, industrial or other uses, by (2) regulating the area and dimensions of lots, yards and other open space, by (3) regulating the location, bulk, height, design and land coverage of structures, by (4) regulating the density of population, by (5) establishing districts of such classification, number and dimensions as may be considered best to implement comprehensive planning. (Ord. 2001-19).

1.02 OBJECTIVES - This Code shall be used to achieve the following objectives:

- (a) To protect the character and values of residential, business, industrial and other uses, and to assure their orderly and beneficial development.
- (b) To provide adequate open space for light and air.
- (c) To prevent overcrowding of the land.
- (d) To prevent excessive concentration of population.
- (e) To improve the public safety and reduce congestion by locating structures and uses in relation to streets so as to cause the least interference to traffic movements.
- (f) To provide for the proper development of public utilities such as water supply and sewerage collection, as well as the development of recreation, education, transportation and other public facilities.
- (g) To encourage the most appropriate land uses.
- (h) To protect the groundwater and natural watercourses within the Village.

1.03 ESTABLISHMENT OF DISTRICTS - The following districts which are designated on the Zoning Map are hereby established in the Municipality:

<u>District Title</u>	<u>Abbreviations</u>
<u>Residential</u>	
Residential, One Family	R-1-A, R-1-B, R-1-C, R-1-D
Residential, Multifamily	R-2
Residential Neighborhoods	R N-1
Elderly Assisted Living	R-3

Business

Business	B-1
Limited Business	B-2
Medical Districts	B-3
Limited Offices	B-4

Industrial

Light Industrial	I-1
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The above abbreviations shall refer to the corresponding district titles.

1.04 ESTABLISHMENT OF REGULATIONS - The definitions, administrative provisions, district regulations, conditional use regulations, parking and loading regulations, sign regulations, development regulations, performance regulations, nonconforming use regulations and all other regulations, procedures, schedules, forms, figures and maps set forth or referred to in this Code are hereby established. Except as otherwise provided herein, no structure or land shall be used, and no structure shall be erected, altered or moved in whole or part, without compliance with this Code.

1.05 ESTABLISHMENT OF ZONING MAP - The aforesaid districts are designated by symbols and the location and boundaries of said districts are established on the map entitled "Zoning Map of the Village of South Russell Ohio". The Zoning Map, certified by the Commission Chairman and Secretary, shall be on file with the Zoning Inspector and no change thereon shall be made without legislative authority.

1.06 DISTRICT BOUNDARIES - District boundaries established on the Zoning Map enclose areas of a designated district. Such boundaries generally follow the center line of streets, lot lines or their extensions, provided:

(a) Where a district boundary is shown by dimension or relationship as being located a specific distance from or parallel to a street or property line, such distance shall control.

(b) Where a district boundary divides a parcel of land, the location of such boundary, unless related to fixed points on the property boundary, shall be determined by scale, and the parts of the lot shall comply with the regulations of the district in which each part is located.

(c) Where the Zoning Inspector cannot determine a district boundary according to the above rules, the Commission shall determine the exact location.

1.07 ANNEXED TERRITORY - All zoned territory which may hereafter be annexed to the Municipality shall continue under existing zoning regulations until such regulations are amended by the Municipality. If zoning regulations are not established in such territory at the time of annexation, the annexed territory shall be classified as an R-1-A District and the regulations of this Code shall govern.

1.08 INTERPRETATION - Provisions of this Code shall be considered minimum requirements and shall be construed to further its underlying purpose and objectives. They shall apply uniformly

to each district, lot and structure. Where provisions of this Code impose restrictions upon structures or land more restrictive than those imposed or required by other regulations, covenants, easements or restrictions running with the land, this Code shall govern and conversely, other regulations or covenants shall govern if they are more restrictive than this Code.

1.09 CONFLICT - Nothing in this Code shall remove, abrogate or render inoperative any covenant running with the land, easement or other agreement between parties. Provisions of this Code shall apply to all structures and land of any political subdivision, district, taxing unit or bond-issuing authority located within the corporate limits of the Municipality to the extent allowed by law. Municipal officials with the authority to issue legal documents, shall not issue permits or certificates which would result in conflict with this Code. However, should such a permit or certificate be issued and be in conflict with this Code, it shall be deemed null and void.

1.10 SEPARABILITY - Should any provision of this Code be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Code other than the provision declared to be invalid nor shall such decision affect the application of any provision to different facts or circumstances.

1.11 TEMPORARY USES - Temporary living space or space used until a dwelling is completed, including basements, garages, or mobile homes, shall not be permitted in any district. A zoning permit shall be required for any other temporary use or structure except for temporary structures for construction operations which meet the following criteria:

Temporary structures for construction operations, including field offices, storage of materials and work shop for assembly of components, may be permitted on undeveloped lots, if such structures are found necessary for the construction operations for which a building permit has been issued, provided such temporary structures shall be located at least 200 feet from the nearest occupied residential dwelling and shall be removed within thirty (30) days after the completion or discontinuance of the work.

1.12 SOIL REMOVAL - Soil, sand or gravel shall not be stripped or removed in any district except in conformity with the requirements of Chapter 1466, Erosion and Sediment Control of the Codified Ordinances of the Village of South Russell.

CHAPTER 2

DEFINITIONS

2.00 INTENT - Words in this Code are normally used in their ordinary English usage. Certain terms, however, are herein defined for specific understanding.

2.01 GENERAL TERMS - The word "shall" is to be interpreted as mandatory. The word "may" shall be interpreted as permissive. Words in the singular shall include the plural. Words in the present tense shall include the future tense, unless the context clearly indicates the contrary. This inclusion of any definition in this Section shall not be deemed to authorize or permit the use of any land or structure unless specifically authorized in another Chapter of this Code.

(1) **Accessory Structure**: A subordinate building detached from, but located on the same lot as the main structure, the use of which is customarily incidental to that of the main structure or use.

(2) **Accessory Use**: A use located on the same lot with a main use which is customarily subordinate and incidental thereto.

(3) **Agriculture**: The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floraculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing produce, provided the operations of such accessory uses shall be secondary to normal agricultural activities and provided further that the above uses shall not include mink farms, retail sales, the commercial keeping or boarding of animals or the commercial feeding of garbage or offal to swine or other animals.

(4) **Apartment**: A multi-family building containing three or more dwelling units arranged side-by-side or one above the other; each unit having a separate entrance or entrances connected to a common outside entrance or entrances.

(5) **Automotive Sales**: Sale/lease of new and used automobiles only when the used automobiles are sold/leased in conjunction with new automobiles; or the sale/lease of boats, bicycles, or motorcycles. Retail sales of new accessories and parts for automobiles, boats, bicycles, and motorcycles is permitted. Service and repair of automobiles, boats, bicycles or motorcycles shall be permitted only in conjunction with the sale as an accessory use within an enclosed structure. (Ord. 2001-19).

(6) **Banner**: A piece of cloth, canvas, plastic sheet or other pliable material which serves as a sign.

(7) **Basement**: The space of a building where the floor level is more than forty-two (42) inches below the adjoining finish grade.

(8) **Bed and Breakfast**: An owner/occupied residence with no more than 5 guest rooms to accommodate lodgers for compensation and serving meals to lodgers only. (Ord. 2001-19).

(9) **Board**: Board of Zoning Appeals of Municipality.

(10) Building: A structure affixed to the land, having one or more floors and a roof, used as a shelter or enclosure for persons, animals, or property. The term "building" is synonymous with structure and shall be deemed to include appurtenances and parts thereof.

(11) Building Frontage: Whenever it is necessary to determine the amount of building frontage for purposes of applying any sign regulations contained within the Zoning Ordinance, the following definition shall be applied: the number of lineal feet of the facade facing the principal street or containing the main entrance of a main business or industrial structure. Main structures permitted in business and industrial districts having frontage on a secondary street may include 20 percent of the length of the facade facing the principal street as building frontage.

(12) Building Inspector: Building Inspector and Zoning Inspector of the Municipality.

(13) Building Line: A line established by this Code, and measured from a front line, defines the limits of a front yard in which no structure may be located, except as otherwise provided in this Code.

(14) Bulletin Board: An announcement sign directing attention and located on the lot of a public or semi-public institution.

(15) Business and Industrial Sign: A sign which directs attention to the name of a business or establishment, and the goods sold or produced, or services rendered on the lot on which the sign is located.

(16) Cemeteries: Land and ancillary facilities used for the burial of the human dead.

(17) Church: A building or group of buildings, including customary accessory buildings, designed for public worship; for purposes of this Zoning Code, the word "church" shall include temples, cathedrals, synagogues, chapels, congregations, and similar designations. (Ord. 2001-19).

(18) Clerk: Clerk of Council.

(19) Club Pool: A swimming pool operated by a private club, for the exclusive use of a limited number of members and their guests. A pool operated by the Municipality is considered under this category.

(20) Code: Zoning Code of Municipality.

(21) Commercial Amusements: Assembly and meeting halls, billiard halls, dance halls, indoor theaters, ice and roller skating rinks, commercial swimming pools and other social, fraternal, sport or recreational establishments (not including bowling alleys) provided they are conducted within an enclosed building, and sufficiently sound insulated to confine the noise to the premises; an outdoor recreational facility for miniature golf and golf driving ranges.

(22) Commercial Pool: A pool operated for profit and open to the public upon payment of a fee.

(23) Commission: Planning Commission of Municipality.

(24) Common Land: Land designated in covenants or other conditions running with the land for permanent common use by the owners or occupants of private land therein.

(25) Conditional Use: Uncommon or infrequent use which may be permitted in certain districts subject to compliance with the conditions and standards of this Code and the granting of the conditional use permit by the Commission.

(26) Consultant: Planning consultant of Municipality.

(27) Corner Lot: A lot abutting two streets at their intersection.

(28) Council: Legislative body of Municipality.

(29) County: Geauga County, Ohio.

(30) Court: An open area other than a yard, bounded on two or more sides by walls of a structure.

(31) Detached Structure: A building surrounded on all sides by yards and separated from other buildings. Such definition is for use only in conjunction with the Zoning Code.

(32) Developer: Any person, firm, association, corporation, trust, or other legal entity, including contractors and agents, commencing proceedings under this Code.

(33) Development Area: Any area proposed for development requiring approval according to this Code.

(34) Development Plan: A plan showing the location of all structures and units and their sizes, signs, screening, parking and loading areas, access drives, landscaping, utilities and grading proposed in the development area.

(35) Directional Sign: A sign indicating the direction to which attention is called either on the same or another lot.

(36) Distribution Operations: The storage and distribution of products, food, and beverages.

(37) Dwellings: Permanent structures designed for primary use as a residence and used for human habitation, and excluding transient housing and mobile homes and other structures not designed or constructed for permanent placement into the ground.

(38) Dwelling Units: The space occupied by one family.

(39) Elderly Assisted Living District: Assisted living facilities for the purpose of providing services for persons over the age of 60 including the provision for board, shelter, assistance in daily activities, recreational services, social services, laundry facilities for laundering of residents' clothing and linens, facilities for food preparation for the exclusive use of employees, residents, and guests of residents, beauty, barber and canteen services exclusively for residents and provision for

administrative staff for supervision and management of such facilities, it being the intent to provide facilities to persons who are not in need of daily nursing services.

(40) Employees: The maximum number of employees on any two successive shifts.

(41) Employee Lunch Rooms: Facilities for the exclusive use of employees and customers of the permitted main use.

(42) Enclosed Structure: A building enclosed by a permanent roof and exterior walls or party walls, pierced only by windows and doors.

(43) Engineer: Engineer of Municipality.

(44) Envelope: A tract of land in a private cluster residential development abutting or having a right of access to a public street or spur road which is occupied or intended to be occupied by a detached single-family dwelling only and which is designated as a separate parcel on a subdivision plat.

(45) Fences: Structures at least thirty-six (36) inches in height and used for the enclosure or screening of property. A split-rail fence is one in which fence rails split from logs are arranged horizontally, spaced apart, and linked by stationary wooden posts.

(46) Finished Grade: The surface elevation after all improvement work has been completed in accordance with all applicable ordinances, rules and regulations.

(47) Floor Area: The total area of all floors, including the basement, measured from the exterior faces of a structure. Floor area used for storage or packaging of merchandise will be excluded, unless otherwise required by the Commission. (Ord. 2001-19).

(48) Front Lot Line: The lot line separating an interior lot from the street upon which it abuts, or the shortest lot line of a corner lot which abuts a street, except that when lot lines abutting streets are of equal length, the front lot line shall be considered on the street having the longest frontage within the same block. Unless the context clearly indicates the contrary, the term front lot line is synonymous with street right-of-way line.

(49) Front Yard: The yard extending between the front wall of a structure and front lot line, or right of way, the full width of the lot. (Ord. 2001-19).

(50) Gardens and Domestic Animals: Cultivation of fruit, vegetables or other plants and keeping of domestic animals for private use and enjoyment, but excluding the commercial sale of products, commercial kennels, animal boarding facilities, veterinarian clinics and commercial greenhouses.

(51) Gas and Oil Wells: Well means any bore hole, whether drilled or bored, for production, extraction or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil filled water. Oil means crude petroleum oil and all other hydrocarbons, regardless of specific gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the

reservoir. Gas means all natural gas and other fluid hydrocarbons not defined herein as oil, including condensate. Condensate means liquid hydrocarbons that were originally in the gaseous phase in the reservoir. Oil and gas wells shall mean all wells as defined herein for the production or extraction of oil and/or gas.

(52) Gas Stations: Establishments for the retail sale of gasoline, new automobile accessories and limited accessories services.

(53) General Advertising Sign: A sign directing attention to a business, product, service or entertainment conducted, sold or offered elsewhere than upon the same lot on which the sign is located.

(54) Golf Courses: Land and ancillary facilities used for playing golf, excluding driving ranges, and miniature golf courses.

(55) Ground Signs: "Ground sign" includes any sign supported by uprights or braces placed upon the ground, which sign is not attached to a building and the bottom of which sign does not exceed 3 feet above ground or grade level and the top does not exceed 7 feet above ground or grade level. Where a ground sign is placed perpendicular to the street, both sides may be utilized for frontage.

(56) Homes Association: An unincorporated or incorporated, non-profit, organization, including an owners association, operating under recorded deed restrictions and/or by-laws through which each lot owner in a subdivision is required to be a member, and each lot is subject to charges for a proportionate share of the expenses for the organization's activities, such as maintaining common land.

(57) Horse Areas: All enclosed land and structures used for the keeping of horses.

(58) Interior Lot: A lot other than a corner lot.

(59) Lakes: Any body of water having a surface of one or more acres. Any body of water having less than one acre shall be defined as a pond.

(60) Landscaping: The design, planting and maintenance of trees, hedges, shrubs and other plants exceeding a height of three (3) feet above the finished grade.

(61) Limited Offices: Limited offices for advertising and marketing agencies, architects, engineers, sales representatives, insurance agencies, and similar uses as approved by the Commission, which are housed in structures having an exterior appearance similar to and compatible with surrounding residential structures which are built in accordance with Building Code Regulations governing business or commercial structures, provided such use is limited to ten people working on the premises in any one structure on the lot, the structure housing the people does not exceed 4,000 square feet gross floor area and houses no more than 3 different uses, all parking is located in the rear of the structure, and provision shall be made for an area large enough for the parking of ten motor vehicles unless otherwise approved by the Planning Commission, any proposed use does not ordinarily require clients or customers to visit the premises to obtain the services being offered by the proposed use, all signs are located on the lot in accordance with Chapters 5 and 9 of

this Code, and no retail sales of goods or products are permitted in the District. No more than one structure intended for limited office use shall be permitted on a lot. (Ord. 2001-19).

(62) Loading Space: An open area at least twelve feet wide and forty feet long, used exclusively for maneuvering delivery vehicles. Loading spaces shall be directly related to receiving platforms or other similar facilities in a structure on the lot and shall not be located in any front yard.

(63) Lot: A tract of land abutting a street occupied or intended to be occupied by use, structure or group of structures, and their accessory uses and structures, together with yards and open space required by this Code of the Subdivision Regulations. A lot may or may not coincide with a lot of record, and may comprise more than one contiguous parcel.

(64) Lot Area: The total horizontal area within lot lines, excluding water area (unless such water area is totally enclosed within lot lines of the same lot) and/or common land, (also referred to as open space), and excluding areas subject to restrictive easements or covenants not permitting any further development of the land. Where land is used for residential condominiums, lot area shall mean total horizontal area within lot lines, excluding water area, and excluding areas subject to restrictive easements or covenants not permitting further development of the land.

(65) Lot Coverage: The percentage of lot area occupied by the total floor area of structures, parking, and driveways. (Ord. 2001-19).

(66) Lot Depth: The main horizontal distance of a lot measured between the front and rear lot lines.

(67) Lot of Record: Land designated as a separate parcel on a plat or by a legal description in a deed lawfully recorded with the recorder.

(68) Lot Line: The boundary of a lot separating it from a street, easement or another lot. The minimum front lot line of any lot shall be fifty (50) feet and said front lot line must abut a public right-of-way.

(69) Lot Width: The horizontal distance of a lot measured along the minimum required building set-back line (also referred to as building line), at a right angle to the mean lot depth line, regardless of where the building on such lot is to be ultimately located on the lot. This provision is intended to confirm that the required minimum horizontal width for a lot as established under Sections 4.02, 502 and 6.02 of this Zoning Code is measured at the minimum required building set-back line, thereby discouraging flag lots. The minimum lot width must also be met at the actual building line.

(70) Main Use: The principal use of a lot which is permitted by right, subject to the provisions of this Code. The Planning Commission may also allow a use not specifically listed as a permitted main use of the premises if the Planning Commission deems the use is similar to those specifically listed as permitted uses and is in keeping with the intent and spirit of this Code. (Ord. 2001-19)

(71) Medical Services: Medical, osteopathic, dental and podiatric offices or clinics, and incidental support services which offices or clinics may include facilities for out-patient surgery, and

for facilities for short-term observation and treatment (to a maximum of 48 hours), such short-term treatment facility to consist of no more than five beds for overnight treatment and/or observation. Retail services within the clinic structure shall be limited to the following:

(1) Retail pharmacy for the dispensing of drugs and medical appliances and supplies only as an incidental use to the overall operations within the clinics.

(2) Retail optical facility, to include lens grinding and the sale of corrective eyewear, as an incidental use to the overall operations within the clinic. Such retail services may be advertised, but such advertising shall be limited to that contained in the then-current sign ordinances of the Village; in no event shall a sign for the clinic and all retail facilities together exceed the amount allowed for one business under the then-current sign ordinance of the Village.

(72) Metal Production: Cutting, casting, stamping, electric welding, grinding, machining and finishing as incidental component operations, but not as a single operation in the production of assembly of products which have a high value in relation to bulk.

(73) Mortuaries: Establishments where the human dead are kept before burial or cremation.

(74) Multi-Family Dwelling: Either a building consisting of between three (3) and six (6) dwelling units with varying arrangements of entrances and party walls (including apartments and townhouses), or a building consisting of one (1) or two (2) dwelling units, detached or separated from other dwelling units but located in an R-2 District and located on land dedicated as condominium development pursuant to Ohio Revised Code Chapter 5311.

(75) Municipality: Village of South Russell, Ohio.

(76) Nameplate Sign: A sign indicating a name, address and profession of the person or persons occupying a lot.

(77) Natural Grade: The elevation of the grade prior to any excavation or fill.

(78) Net Area: The total lot area, exclusive of streets, spur roads (presumed to be 60 feet in width for density calculation only), and sewer, water and similar utility treatment, pumping or storage facilities. (Amended by Ord. No. 1992-8, passed 02-24-92)

(79) Non-Metal Production: Such as clothing and other textile products, pharmaceutical products, compounding of cosmetics, drugs and toiletries; plastic extrusion, molding and fabricating of panels, sheets, tubes and rods; printing, publishing and engraving; wood, fabrication of furniture, cabinets and other wood products.

(80) Offices: Professional, financial, public, executive, administrative and sales offices, and lending institutions.

(81) One-Family Dwellings: A building consisting of one (1) dwelling unit detached or separated from other dwelling units by yards on all sides.

(82) Open Space: Common land in a subdivision which is dedicated or permanently assigned to park or recreation use, excluding areas covered by streets, rights-of-way and easements where the use of the easement is detrimental to the health, safety or welfare or potential users of open space. Open space may be dedicated to the public if the Planning Commission recommends the same and Village Council accepts the offer of dedication of the Open Space as public land.

(83) Outdoor Sales: Permitted retail sales outside of a structure.

(84) Owners Association: An organization of all owners in a condominium property provided for by Chapter 5311 of the Ohio Revised Code.

(85) Parking Space: An open or enclosed area accessible from a street or access drive for parking the motor vehicles of owners, occupants, employees, customers or tenants of the main structure or use. Each space shall be at least nine feet wide and include at least 180 square feet, excluding drives, curbs and turning space. The number of spaces shall be determined from an accurate plan of the area. Where the computation of required spaces results in a fraction, one additional space shall be provided.

(86) Parks: Public or common land proposed for dedication or permanent assignment as outdoor recreation land.

(87) Pennant: A long, narrow, triangular or tapering cloth, canvas, plastic sheet or other pliable material serving as a type of sign.

(88) Personal Services: Services such as beauty and barber shops and interior decorating. Laundries, laundromats, tailoring, pressing and drycleaning in which only non-explosive and non-flammable solvents are used, provided no work is done on the premises for retail outlets elsewhere. Repair services such as shoe, furniture, household appliances, and electronics repair for consumer oriented products. Services for personal development such as dance studios, yoga, cooking classes, fitness centers, tanning salons, and similar uses. Services for personal assistance such as daycare for children, but not the boarding of animals.

(89) Pole Sign: "Pole sign" means a sign supported by a pole or poles, which are placed upon the ground and are not a part of any building, the bottom which sign is at least 3 feet above ground or grade level.

(90) Political Sign: A temporary sign concerning any candidate, political party, issue, levy, referendum or other matter whatsoever eligible to be voted upon in any general, primary or special election; or any sign advocating action on a public issue or candidate for public office. Such signs must be removed within forty (40) days, but in no event long then ten (10) days following the election event. Each such sign must be located outside the street right-of-way or 15 feet off the paved portion of the street, whichever is greater. No political sign shall be posted on trees or utility poles. Such signage shall also comply with all other regulations for temporary signs in the zoning district in which the sign is located except as follows:

(1) Size: The size of a political sign is unrestricted but must not unreasonably interfere with the movement of vehicles or pedestrian traffic or create or constitute a nuisance upon neighboring properties.

(2) Materials: Must be constructed of materials which will not likely lead to litter.

(3) Whenever a restriction on Temporary Signs in a particular zoning district conflicts with any restrictions set forth in this Section, the lesser restriction shall apply to political signs.

(91) Ponds: Any body of water having a surface of less than one acre.

(92) Private Cluster Residential Development: A development at least fifty acres in size of single family detached dwellings located on private sublots known as Envelopes, generally clustered on private spur roads, or located adjacent to common areas abutting public streets with the balance of the development held for the benefit of all Envelope owners in common land, which may be developed in the district zoned R-2, Residential, Multi-family. (Added by Ord. No. 1992-8, passed 02-24-92)

(93) Private Garages: Enclosed structures attached or detached to the main use used exclusively for the storage of automobiles owned by the occupants of the main use.

(94) Private Land: Land which is attached and permanently assigned to a privately-owned structure or use, including common land.

(95) Private Pool: A swimming pool maintained for the sole use of a household and guests without charge for admission and located as an accessory use to a dwelling.

(96) Projecting Sign: A sign erected on the outside wall of a structure which projects out at any angle therefrom.

(97) Public Buildings: Municipality administrative and legislative offices and municipality libraries, and museums.

(98) Public Land: Land which is formally offered for and dedicated by the municipality or other public body for any public use.

(99) Real Estate and Development Sign: A temporary sign directing attention to the promotion, development, rental, sale or lease of property on which it is located, or a sign indicating the name, owner or manager of a development. (Ord. 2001-19).

(100) Rear Lot Line: A lot line which most closely parallels the front lot line.

(101) Rear Yard: The yard extending between the rear wall of a structure and the rear lot line.

(102) Recreational Vehicles: shall include the following:

A. A travel trailer, means a non-self-propelled recreational vehicle, portable structure built on a chassis designed to be used as a temporary dwelling for travel,

recreational and vacation use, and permanently identified “travel trailer” by the manufacturer. Travel trailer includes a tent-type fold-out camping trailer as defined in Ohio R.C. §4517.01;

B. A pickup camper, i.e., a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation use;

C. A motor home means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle, and designed for travel, recreational and vacation use and is constructed with permanently installed facilities for cold-storage, cooking and consuming of food, and for sleeping;

D. A folding tent trailer, i.e., a canvas folding structure, mounted on wheels and designed for travel, recreational and vacation use;

E. Boats and boat trailers, including boats, canoes, floats and rafts, snowmobiles, all-terrain vehicles, plus the normal equipment to transport the same on a street or highway;

F. “Park Trailer” means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A110.5 (1988) for park trailers, is built in a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances and is constructed with permanently installed facilities for cold-storage, cooking and consuming of food, and for sleeping.

G. “Truck Camper” means a non-self-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. “Truck Camper” does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(103) Renting of Rooms: Renting of sleeping units excluding any cooking facilities.

(104) Required Yard: The minimum yard required between a lot line and structure.

(105) Research Laboratories: Experimental, testing, and basic and applied research of product design and development limited to the construction and operation of small-scale experimental operations.

(106) Retail:

(1) Retail Sale of baked goods, confectionery, groceries, meats, fruits, vegetables, dairy products and packaged beverages.

(2) Serving and consumption of food and beverages; places where food or beverages are not consumed within a building may be permitted if a conditional use permit is granted according to provisions in this Code.

(3) Retail sale of drugs, books, gifts, antiques, art goods, flowers, periodicals, musical instruments and supplies. Sale of books, movies or videotapes by an establishment having as a substantial or significant portion of its stock and trade movies, videotapes, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such materials shall not be permitted. Specified sexual activities shall include but not be limited to human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts. Specified anatomical areas is defined as less than completely or opaquely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola, and human male genitals in a discernly turgid state, even if completely or opaquely covered.

(4) Retail sale of wearing apparel, shoes, sporting and athletic goods.

(5) Retail sale of hardware, tools, paint, garden supplies, household appliances, and pets.

(107) Schools: Public or private educational institutions.

(108) Seat: The number of seating units installed or indicated, or each 24 lineal inches of benches, pews or space for loose chairs or similar seating facilities. Spacing of rows of seats shall be thirty inches on center.

(109) Secretary: Secretary of Commission.

(110) Side Lot Line: A lot line which is neither a front or a rear lot line.

(111) Side Yard: The yard extending between a side wall of a structure and a side lot line.

(112) Sign Area: The total area of all signs permitted on a lot and including:

1. The area of the faces visible at one time from a public way of all permanent exterior signs.

2. The area of permanent signs placed upon the surface, windows and doors of all structures on the lot.

3. The area within an outline enclosing the lettering, modeling or insignia of signs integral with a wall and other signs not designed as a panel.

(113) Solicitor: Legal counsel for Municipality.

- (114) State: State of Ohio.
- (115) Streamer: A series of banners, pennants or other shaped cloth, canvas, plastic sheet or other pliable material, including tinsel, attached to a line such as a rope or wire.
- (116) Street: Any way as defined and classified in the Subdivision Regulations.
- (117) Street Grade: The elevation approved by the Engineer at the center line of a right-of-way.
- (118) Structure: That which is constructed on or under the ground or attached or connected thereto, including, but not limited to: buildings, barriers, bridges, bulk heads, chimneys, crane-runways, fences, outdoor seating facilities, pipe racks, platforms, pools, poles, tanks, tents, towers, transformer substation, sheds, signs, stacks, walls, decks or any manmade products set on or under the ground. A structure shall include: trailers and other vehicles whether on wheels or other supports. "Structure" shall not include a wireless telecommunications facility, including a wireless telecommunications tower and equipment shelter, as defined under Section 7.02(x) of this Zoning Code. A structure shall not include a single-family residential septic system, including any such septic system which contains above-grade components.
- (119) Structural Height: The vertical dimension measured from the highest point of a structure.
- (120) Subdivision: The division of any parcel of land as defined and classified in the Subdivision Regulations.
- (121) Subdivision Regulations: Subdivision Regulations of Municipality.
- (122) Swimming Pool: A permanent, open tank or other structure not located within a completely enclosed building designed to contain the depth of at least three (3) feet of water at any point, including lounges and walkways abutting or connected thereto, and spectator areas and any accessory buildings, structures or equipment.
- (123) Temporary Sign: A sign applying to a seasonal or other brief activity constructed of cloth, paper or fabric of any kind with or without a frame.
- (124) Town House: A multi-family building containing up to six (6) dwelling units attached by common fireproof walls, each unit having at least one (1) separate exterior entrance.
- (125) Two Family Dwelling: A building consisting of two dwelling units which are either attached side by side, or one above the other; each unit having either a separate or combined entrance or entrances.
- (126) Treasurer: Treasurer of Municipality.
- (127) Use: Any purpose for which a structure or land is designed, arranged, maintained or occupied.

(128) Veterinarian Clinics: Establishments for the rendition of veterinarian services where the keeping of animals is incidental only to necessary medical treatment and the keeping of all animals shall be within an enclosed building and sufficiently sound insulated to confine any noise from animals to the premises.

(129) Wall Sign: A sign erected parallel to, painted on or integral with the wall of a structure.

(130) Yard: That portion of the open area on a lot extending between a structure and the nearest lot line, open and unobstructed from the ground.

(131) Zoning Inspector: Zoning Inspector and Building Inspector of the Municipality.

CHAPTER 3
ADMINISTRATION

3.00 INTENT - Provisions are herein established to achieve effective, efficient and uniform administration of this Code.

3.01 ZONING PERMITS - No structure or sign shall be erected, enlarged or moved in whole or in part, and no use shall be established or changed prior to the issuance of a zoning permit by the Zoning Inspector. Furthermore, any change of occupancy of a portion or all of a structure in a business or industrial district shall require the issuance of a new zoning permit. Zoning permits shall be issued according to the following procedures:

(a) **Application:** Applications for zoning permits shall include the following data:

1. One (1) copy of Form Z-1 completed by the applicant and required data specified thereon.
2. The fee specified on Schedule 1.

(b) **Notification:** Within five (5) working days after receipt of a completed application, the Zoning Inspector shall notify the applicant on Form Z-1 that one of the following actions is required:

1. Approval by Zoning Inspector only.
2. Highway Director review according to Section 3.03.
3. Development approval according to Section 3.04.
4. Issuance of a conditional use permit according to Section 3.05.

(c) **Action:** If approval by the Zoning Inspector without other action is required, the Zoning Inspector shall approve or disapprove said application within five (5) working days after receipt of a completed application. If another approval is needed as a condition precedent to action by the Zoning Inspector, the Zoning Inspector shall have five (5) working days after the date of notification of such other prior approval, before approving or disapproving the application. Approval shall be granted only if the application complies with all provisions of this Code, and other applicable municipal, county or state law. No building permit shall be issued by the Building Inspector prior to the issuance of a zoning permit.

No building permit shall be issued prior to the applicant obtaining approval from the Architectural Review Board when required in Chapter 264 of the Codified Ordinances of the Municipality. The Zoning Inspector shall not grant variances and shall not approve any application which requires a variance until it has been granted by the appropriate board.

(d) **Permit Issued:** The Zoning Permit shall be issued by the Zoning Inspector immediately after his approval of the application. Such permit shall become void if work is not

started within one hundred eighty (180) days and completed within twelve (12) months after the date of issuance unless an extension of an additional six (6) months period is obtained by applicant from the Commission if completion is not possible within twelve (12) months. Any such request for an extension shall be accompanied by an additional fee of twenty-five dollars (\$25.00) and shall be deemed to be a request for a zoning permit under Schedule 1.

3.02 "RESERVED"

3.03 DIRECTOR OF TRANSPORTATION REVIEW - No application for a zoning permit involving land within 300 feet of the centerline of a certified, proposed new or altered state highway, or within 500 feet of the point of intersection of such centerline with any other street, shall be approved by the Zoning Inspector prior to review by the State Director of Transportation according to the following procedure.

(a) Referral: Within five (5) working days after receipt of a completed application for a zoning permit the Zoning Inspector shall forward a copy thereof to the Director.

(b) Review: If within 120 days after the date of referral the Director notifies the Municipality that land acquisition shall proceed, the application shall be disapproved. If the Director notifies the Municipality that land acquisition shall not proceed, or upon the expiration of 120 days, the Zoning Inspector may approve the application.

3.04 DEVELOPMENT APPROVAL - Other than as to the exception set out in Paragraph 1 below, no application for a zoning permit involving a multi-family residential, private cluster residential development, or Envelope, residential neighborhood, elderly assisted living facility, any one-family structure exceeding thirty (30) feet maximum height and not requiring a variance, business or industrial structure or use, or any property located in a groundwater sensitive zone in which the applicant seeks to develop the property and the future occupants potable water needs will be supplied by using groundwater from the property, shall be approved by the Zoning Inspector prior to approval by the Commission according to the following procedure and development regulation of this Code. (Amended by Ord. No. 1993-37, passed 8-16-93)

1. a. Where there has been a change of occupancy only, in all or a portion of a structure in a business or industrial district, and there has been no change in the use of said structure or relevant portion thereof, nor any erection or enlargement of said structure, then the Planning Commission review is not necessary and the Zoning Inspector may issue the zoning permit without prior Commission approval.

b. Where a zoning permit has already been issued for a "residential neighborhood" development, the Zoning Inspector may thereafter issue any required zoning permits without prior Commission review or approval.

- (a) Application: Applications for development approval shall include the following data:
1. One (1) copy of Form Z-1 completed by the applicant and Zoning Inspector and required data specified thereon.
 2. The deposit specified on Schedule 1.

(b) Review: Upon receipt of a completed application the Secretary shall forward a copy to the Engineer and place it on the agenda of the next regular Commission meeting. The filing date of the application shall be the date of this meeting. The Planning Commission may defer action, as set forth in subsection (c) below, upon such application, until the date of the next regularly-scheduled Planning Commission meeting, but in no event later than forty (40) days after the filing date, unless the applicant agrees to a further extension of time for Planning Commission action.

(c) Action: Following a review of the application and reports thereon, the Commission shall within the time limit as set forth in paragraph (b) approve, conditionally approve or disapprove the application. Commission action, including any conditions thereto shall be certified by the Secretary on Form Z-1 to the applicant and the Zoning Inspector.

(d) Permit Issued: Unless specifically authorized otherwise by Planning Commission, the applicant shall comply with all conditions imposed by any permit prior to commencement of development where possible. Before a zoning permit is issued, the Commission in its discretion may require a performance bond in an amount determined by the Engineer and in form approved by the Solicitor which shall be placed with the municipality to assure that grading, landscaping, paving, storm drainage and other improvements shall conform to the approved development and all laws and regulations of the municipality.

(e) Review Standards: It shall be the duty of the Planning Commission to investigate and ascertain if the plans for the development comply with the following conditions, which conditions must be complied with by the applicant in order to receive a zoning permit to develop their property:

1. That the proposed development is harmonious with the Subdivision Regulations, if applicable, of the Village of South Russell.
2. That it will not adversely affect neighboring properties.
3. That the plan of the development provides for integrated and harmonious design of buildings and structures and for adequate and properly arranged facilities for internal traffic circulation, off-street parking and loading, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the applicant as well as from the standpoint of the adjoining or surrounding, existing or potential developments.
4. That an adequate water supply sufficient for the reasonable needs of the proposed development is available to the development without unduly burdening the already existing water users in the vicinity or endangering the water supply or recharge area of the Village. There are hereby created groundwater sensitive zones in the undeveloped and under developed portions of the Municipality known as The Two Acre Groundwater Zone (GW-2), The Three Acre Groundwater Zone (GW-3), The Four Acre Groundwater Zone (GW-4) and The Five Acre Groundwater Zone (GW-5) as designated on the map hereinafter described. Said zones are created in areas where further development of the land is possible and where the potential development may

adversely affect the available groundwater for the present and future consumers of the groundwater. Any property located in a groundwater sensitive zone shall be developed in accordance with the minimum lot area requirements of such zone which are displayed and set forth in the Groundwater Sensitive Zone Map dated September 1, 1988 and as may be amended from time to time, which shall be on file and maintained at the office of the Village Clerk. If any parcel of land is located in more than one zone, the minimum lot area for the entire parcel shall be the larger minimum lot area of the zones unless the Commission finds that the proposed use of the parcel of land can be located in such a fashion as to utilize the groundwater in a less restrictive zone. In such event, the less restrictive zone shall govern. However, the Commission, upon the applicant's request, may permit development in accordance with the minimum lot area requirements set forth in Section 4.02, 5.02, 6.02 and 7.02 when presented with evidence satisfactory to the Commission the groundwater conditions located on and under the proposed development are adequate to service the future occupants of the proposed development without adversely affecting the rights of other consumers of the groundwater contained in the same aquifer(s), considering the density allowances of Section 4.02, 5.02, 6.02 and 7.02 or that the proposed development will be serviced by a municipal or county water distribution system adequate to service such needs. If the Commission determines that the services of a hydrogeologist or hydrologist are needed to advise the Commission, the Commission may hire such person or firm at the cost of the applicant. If the applicant intends to obtain water from a public water supply for the proposed development, the entire cost of providing the improvements to the municipal or county water distributing system shall be borne by the applicant. In the event the applicant intends to use the groundwater as the potable water supply, and the Commission determined the groundwater conditions permit minimum lot areas smaller than permitted by the Groundwater Sensitive Zone Map on any part or all of the proposed development but larger than the minimum lot area permitted in Sections 4.02, 5.02, 6.02 and 7.02, the Commission may permit minimum lot areas on any part or all of the proposed development to be compatible with the groundwater capabilities but not less than those set forth in the pertinent regulation found in Sections 4.02, 5.02, 6.02 and 7.02. Density allowance for the purpose of this paragraph shall mean minimum lot area requirements of the Village Zoning Ordinances. (Ord. 1988-59, adopted October 24, 1988); (Ord. 2001-19).

(f) Expenses of Inspection or Investigation for Compliance: The applicant shall be responsible for all expenses incurred by the Village for engineering, legal, and other costs of experts arising from any inspection and/or investigation reasonably necessary for the Village to assure compliance with any developmental approval or to determine whether or not any Village action is required prior to the expiration of any performance bond issued pursuant to paragraph (d) herein. Such costs shall constitute an appropriate charge against the deposit made by the applicant pursuant to Schedule 1 and Section 3.10 herein. If no amounts remain in said deposit by the time said costs are incurred, the development approved shall be considered null and void if such costs are not reimbursed to the Village within thirty (30) days after written demand.

3.05 CONDITIONAL USE PERMITS - No conditional use specified in this Code shall be established prior to the issuance of conditional use permit by the Zoning Inspector according to the following procedure and conditional use regulations of this Code.

(a) Application: Applications for conditional use permits shall include the following data:

1. One (1) copy of Form Z-1 and Z-3 or Z-3-A completed by the Applicant and required data specified thereon.
2. The deposit specified on Schedule 1.

(b) Review & Hearing: Upon receipt of a completed application the Secretary shall place the application on the agenda of the next regular Commission meeting. The filing date of the application shall be the date of this meeting. At such meeting the Commission shall schedule a public hearing within sixty (60) days thereafter. Notice shall be given in a least one (1) publication of a newspaper of general circulation in the Municipality and mailed by the Secretary to the applicant and property owners contiguous to and across the street from the lot involved at least twenty (20) days before the hearing. Failure to deliver such notice, however, shall not invalidate any Commission action. (Ord. 2001-19).

(c) Action: Within 15 days after the public hearing, or continuations thereof, the Commission shall approve, conditionally approve or disapprove the application. Commission action including any conditions thereto shall be certified by the Secretary on Form Z-3 or Z-3-A and one (1) copy shall be returned to the applicant and one (1) copy forwarded to the Zoning Inspector.

(d) Permit Issued: Unless specifically authorized by Planning Commission, the applicant shall comply with all conditions imposed by any permit prior to commencement of development. Such permit shall authorize only one (1) conditional use and shall become void if all work is not started within one hundred eighty (180) days and is not completed within one (1) year after the date of issuance unless an extension is obtained from the Commission or if the conditional use ceases for more than one hundred eighty (180) days. Before a zoning permit is issued, the Commission in its discretion may require a performance bond in an amount determined by the Engineer and in form approved by the Solicitor which shall be placed with the municipality to assure that grading, landscaping, paving, storm drainage, and other improvements shall conform to the approved development and all laws and regulations of the municipality and other conditions for which a performance bond is appropriate and have been required by the Commission.

3.06 AMENDMENTS - Whenever the public necessity, general welfare or good zoning practice require, Council may, after receipt of a Commission recommendation amend or repeal any provision of this Code. Amendments may be initiated by Council or the Commission or by property owner within the area to be changed or affected by the amendment according to the following procedure.

(a) If initiated by Council, Clerk shall forward a copy of the proposed amendment to the Secretary who shall place it on the agenda of the next regular Commission meeting.

If initiated by a property owner, the Secretary shall place the proposed amendment on the next regularly-scheduled Planning Commission meeting provided the property owner has submitted to the Secretary:

1. One (1) copy of the Form Z-5 completed by the applicant and required data specified thereon.
2. The deposit specified on Schedule 1. Every amendment initiated by a property owner shall include a non-refundable fee of \$100. The deposit shall be utilized to cover all costs of the municipality as set forth in Section 3.10 of this Code. In the event the actual cost and fees exceeds the amount of the deposit, the applicant shall pay such additional costs and fees to the Clerk upon receipt of an invoice for such additional costs or fees and no amendment shall be adopted until the same has been paid to the municipality. In the event the deposit drops to less than \$250, the applicant must restore the balance to \$1,000. (Ord. 2001-19).

In all cases, the filing date of the proposed amendment shall be the date when it first appears on the agenda.

(b) Director of Transportation Review: If the proposed amendment involves land within 300 feet of the centerline of a certified proposed new or altered state highway, or within 500 feet of the point of intersection of such centerline with any other street, the Secretary shall forward a copy to the State Director of Transportation. The Commission may thereafter proceed to act on the amendment, but Council shall not approve it for 120 days after referral to the Director. If during this period the Director notifies the Municipality that land acquisition shall proceed, Council shall deny the amendment. If the Director notifies the Municipality that land acquisition shall not proceed or upon the expiration of one hundred twenty (120) days, Council may approve the amendment.

(c) Recommendation: The Commission may hold a public hearing within thirty (30) days after the filing date of the proposed amendment by giving notice on Form Z-4 and at least one (1) publication in a newspaper of general circulation in the municipality at least ten (10) days before such hearing. Form Z-4 shall also be mailed by the Secretary at least ten (10) days before the hearing to the applicant and property owners within, contiguous to, and across the street from any lot of record involved in an amendment to this Code. The proponent of the amendment may require the Commission to recommend approval or disapproval of the amendment exactly as proposed or may consent to modifications of the amendment recommended by the Commission or may request the Commission to recommend approval of an amendment with modifications agreed to and those not consented to by the proponent. Within fifteen (15) days after the hearing or forty-five (45) days after the filing date if no hearing is held, the Commission shall recommend approval, disapproval, or modification of the amendment. Commission action including any conditions thereto shall be certified by the Secretary on Form Z-5 and shall return one (1) to the property owner and forward one (1) to the Clerk.

(d) Council Hearing: Upon receipt of the Commission recommendation, the Clerk shall place the proposed amendment on the agenda of the next regular Council meeting. At such meeting Council shall schedule a public hearing giving thirty (30) days notice thereafter. Notice of the hearing on Form Z-4 shall be given in at least one publication of a newspaper of general circulation in the municipality at least thirty (30) days before such hearing. If the amendment involves rezoning or redistricting of ten (10) or less parcels listed on a tax duplicate, Form Z-4 shall also be mailed by

the Clerk at least thirty (30) days before the hearing to property owners within, contiguous to or across the street from the area involved.

(e) Council Action: Within thirty (30) days after the completion of the required readings, or any waiver thereof, Council shall by ordinance adopt, modify or deny the amendment. No Council action however, shall overrule a Commission recommendation except by an affirmative vote of three-fourths (3/4) of the Council members.

3.07 APPEALS - The Board shall hear and determine any question or dispute involving the interpretation of the provisions of this Code and may grant variances (other than as to the height of any residential dwelling) according to the following procedure, standards and criteria. The Planning Commission shall hear and determine any variance to the maximum height regulations of Chapter 4 of this Code according to the following procedure, standards and criteria. Any party adversely affected may file an appeal to the Board from any administrative action including the granting or denial of a zoning permit or occupancy permit, however, the Board shall not hear appeals from any final decision of the Commission requesting a variance to the maximum height regulations of Chapter 4 of this Code. (Amended by Ord. No. 1993-37, passed 8-16-93)

(a) Application: Applications shall be filed with the Secretary within twenty (20) days after the date of any action to be appealed from and shall include the following data:

1. One (1) copy of Form Z-6 completed by the applicant.
2. The deposit specified on Schedule 1. Every appeal shall include a non-refundable fee of \$100 and the deposit shall be utilized to cover all costs of the municipality as set forth in Section 3.10 of this Code. In the event the actual cost and fees exceeds the amount of the deposit, the applicant shall submit the same to the Clerk upon receipt of an invoice for such additional costs or fees and no permit shall be issued until the same has been paid to the municipality. In the event the deposit drops to less than \$250, the applicant must restore the balance to \$1,000. (Ord. 2001-19).

(b) Review & Hearing: Upon receipt of a complete application, the Secretary shall notify the Chairman of the Board, or the Commission as to residential height variances, who shall schedule a public hearing within thirty-five days of the filing date of the application. Notice of the hearing on Form Z-4 shall be given at least one (1) publication in a newspaper of general circulation in the municipality at least ten (10) days before such hearing. Form Z-4 shall be mailed by the Secretary of the Board, or the Commission, as the case may be, at least ten (10) days before the hearing to the applicant and property owners contiguous to, across the street from, and all others within five hundred (500) feet of any yard of the property involved. Failure to deliver such notice, however, shall not invalidate any Board or Commission action. (Amended by Ord. No. 1993-37, passed 8-16-93)

(c) Action: Within fifteen (15) days after the public hearing, the Board, or the Commission, as the case may be, shall approve, conditionally approve or disapprove the application. Board or Commission action, including any conditions thereto, shall be certified by the Secretary on Form Z-6 and one (1) copy shall be returned to the applicant and one (1) forwarded to the Zoning Inspector. Any rights obtained by variance and any permit issued shall become void if such permit

would become void under Section 3.01 (d) of this Code. In determining whether or not an application for a height variance should be approved, the Commission shall be guided by the provisions of Section 4.02 of this Code and subparagraphs 1, 2, 3 and 4 of this subparagraph C. In determining whether or not the application should be approved, conditionally approved, or disapproved, the action of the Board shall be based on the following standards and criteria: (Amended by Ord. No. 1993-37, passed 8-16-93)

1. Variances to use regulations may be granted only to the following extent:
 - (a) The property cannot be used for any permitted use within the district, and
 - (b) The variance would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located and
 - (c) The variance shall be the minimum necessary in order to provide adequate relief to the property owner.

2. Where the appellant seeks a variance pertaining to an area requirement otherwise applicable to the property, no variance may be granted unless the appellant has demonstrated the literal enforcement of the provisions or requirements of the Zoning Ordinance pertaining to area requirements would cause the appellant practical difficulties. The factors to be considered and weighed in determining whether an appellant seeking an area variance has encountered practical difficulties in the proposed use of his property include, but are not limited to:
 - (a) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - (b) Whether the variance is substantial;
 - (c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
 - (d) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
 - (e) Whether the appellant purchased the property with knowledge of the zoning restrictions;
 - (f) Whether the appellant's predicament feasibly can be obviated through some method other than a variance;
 - (g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

3. Where the Board has determined that literal enforcement of the requirements of the Zoning Ordinance would involve practical difficulties or would cause undue hardship, unnecessary to carry out the spirit and purpose of the Zoning Ordinance, the Board shall have power to authorize a variance from such strict application so as to relieve such hardship or practical difficulties so that the spirit and purpose of the Zoning Ordinance shall be observed and substantial justice done. In authorizing a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it deems necessary in the interest of the furtherance of the purpose of the Zoning Ordinance and in the public interest. In authorizing a variance with attached conditions the Board shall require such evidence and guaranty or bond as it may deem to be necessary to ensure that the conditions attached are being and will be complied with.
4. No such variance in the provisions or requirements of the Zoning Ordinance shall be authorized by the Board unless the Board finds that the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of the Zoning Ordinance or the public interest. (Ord. 2001-19).
5. Variances to area regulations may be granted only to the following extent:
 - (a) A lot of record held in single and separate ownership on the effective date of this Code may be used as a site for a single-family dwelling as provided for in the Code, provided the owner cannot acquire at a reasonable cost additional vacant land adjoining the lot.
 - (b) The Board may vary minimum floor area regulations of dwellings, but by no more than 10 percent, if by reason of conformance to lot frontage, area or yards specified in the Code, or by exceptionally skillful arrangement of site design, the result of such a variance would be in harmony with the character of the neighborhood.
6. Variances to yard regulations may be granted only to the following extent:
 - (a) The Board may permit as may be necessary for the appropriate development of a lot, or because of peculiar shape or topographical reasons, variances to the required yards, provided light and ventilation will be adequate, and privacy will not be impaired, and provided the owner cannot acquire at a reasonable cost additional vacant land adjoining the lot.
 - (b) The Board may permit a modification of required side yard so as to allow a garage to be attached to a one family dwelling constructed before the effective date of this Code to project into a required side yard, providing the resulting side yard is not less than five (5) feet and further providing that the distance to a building or structure on the adjoining lot is greater than ten (10) feet.
7. The Board may permit an increase in height of a proposed or existing structure or part thereof to the same height as adjacent structures, except the Board may not grant any

increases in height to any residential dwellings permitted in Chapter 4 of this Code. (Amended by Ord. No. 1993-37, passed 8-16-93)

8. Nothing in this Code shall be deemed to prohibit any Municipal Official from appealing to the appropriate court from any Board decision.
9. In the event the Board grants a variance, in so doing the Board shall in writing specify the findings of facts in support of such a variance.

(d) Decisions of the Board shall be final within the Municipality, except that an appeal therefrom may be taken to the Court of Common Pleas for Geauga County in accordance with the laws of the State of Ohio, by any proper and interested party, including the Municipality. A Notice of Appeal shall be filed with the Secretary of the Board. (Added by Ord. No. 1992-46, passed 9-14-92)

3.08 VIOLATIONS - Failure to obtain permits specified in this Code or comply with any other provisions of the Code shall constitute a violation. Any person may file a complaint in regard to an alleged violation. All such complaints shall be in writing and shall be filed with the Zoning Inspector, who shall record and investigate such complaints. If the Zoning Inspector finds a violation, he shall notify the person responsible on Form Z-7 and take further action as directed by the Solicitor which may include the revocation of a permit on Form Z-8 or ordering the discontinuance of the violation.

3.09 PENALTIES - A violation of this Code shall constitute a misdemeanor. Any person who violates the Code or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$250 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues after notification thereof shall be considered a separate offense. The owner or tenant of any structure, premises or part thereof, and any architect, builder, developer, agent or other person who commits, participates in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing in this Code shall prevent the Municipality from taking such other lawful action necessary to prevent or remedy a violation.

Any person who violates the provisions of Chapter 7 or fails to comply with any of its requirements shall upon conviction thereof be subject to fines and penalties set forth in Section 7.02 of the Zoning Code.

3.10 FEES & DEPOSITS - Fees and deposits specified on Schedule 1 shall be paid by the applicant to the Municipality before the applicable application is processed. Prior to making application for a conditional use permit, development approval, zoning amendment or variance the applicant shall make the deposit specified on Schedule 1 with the Clerk to cover advertising costs, court reporter fees, other recording fees, legal fees, engineering and hydrology fees, other expert fees necessary to review the proposed development and all other administrative costs and review fees. The deposit shall be placed in a separate fund in the name of the applicant. If during the review of the application the balance of the fund is reduced to less than one hundred dollars (\$100.00) the Clerk shall notify the applicant in writing to provide additional funds which will return the balance to the amount specified on Schedule 1. If such funds are not provided within seven (7) days thereafter, the Clerk shall so notify the applicant that his application will not be processed further

until the required additional funds are deposited. No zoning permit shall be issued until all such costs and fees incurred are paid to the municipality.

CHAPTER 4
RESIDENTIAL DISTRICTS

4.00 INTENT - Residential districts and their regulations herein established to achieve among others, the following purposes:

- (a) To regulate the density and distribution of population, and to avoid congestion and to maintain adequate services.
- (b) To regulate the bulk and location of buildings in order to obtain proper light, air, privacy and usable open space on each lot.
- (c) To protect the desirable characteristic residential development.
- (d) To promote the most desirable land use and traffic patterns. (Ord. 2001-19).

4.01 USE REGULATIONS - In residential districts, structures and land shall be used, and structures shall be erected, altered or moved in whole or in part, only according to the following regulations:

(a) The following classifications of uses shall apply in the residential districts and the uses listed hereinafter shall be permitted only in accordance with all provisions of this Zoning Code.

<u>DISTRICT</u>	<u>MAIN USES</u>	<u>ACCESSORY USES</u>	<u>CONDITIONAL USES</u>
R-1-A, R-1-B, R-1-C, R-1-D (Residential one family)	Agriculture, One Family, Municipal Cemetery	Structures, Home, Occupations, Rented Rooms, Fences, Landscaping, Horse areas, private garages, private pools and ponds, parking	Schools, parks, public buildings, garages and nurseries, golf courses, cemeteries, gas and oil wells, lakes, club pools, churches, wireless telecommunications facility (Ord. 1997-29)
R-2 (Residential multi-family)	One Family Dwellings, Two Family Dwellings, Private Cluster Residential Development, Municipal Cemetery	Structures, Home Occupations, Rented Rooms, Fences, Landscaping, Horse areas, private garages private pools and ponds, parking, one family dwellings, two family dwellings, multi-family dwellings	Schools, parks, public buildings, garages and nurseries, golf courses, cemeteries, gas and oil wells, lakes, club pools, churches, wireless telecommunications facility (Ord. 1997-29)

<u>DISTRICT</u>	<u>MAIN USES</u>	<u>ACCESSORY USES</u>	<u>CONDITIONAL USES</u>
RN-1 (Residential neighborhoods)	One Family Dwellings, One Family Dwellings, (Residential Neighborhood Development) Municipal Cemetery	Structures, Home Occupations, Fences Landscaping, private pools and ponds	Lakes, Club Pools, wireless telecommunications facility (Ord. 1997-29)
R-3 (Elderly Assisted Living)	One Family Dwellings, Elderly Assisted Living Facilities Municipal Cemetery	Parking, Ponds, Horse areas	wireless telecommunications facility (Ord. 1997-29)

(b) Supplementary Use Regulations: The following regulations shall apply to uses within the Residential Districts in addition to those definitions set out in Chapter 2 herein.

1. Structures. Floodlights, radio/TV towers, loud speakers or similar structures shall not be erected or used in any manner that would cause hazards or annoyance to the public generally or to the occupants of adjacent property. Permanent outside fireplaces, sheds or other enclosed structures are permitted provided the total floor area of all such structures on a lot does not exceed five hundred (500) square feet per acre of land on said lot.

Home Occupations: Home occupations may be permitted in a dwelling unit, provided:

- (a) No more than one (1) assistant, other than other members of the family, limited to parents, siblings, children and spouses, residing in the dwelling unit works in the home occupation.
- (b) The use does not change the exterior residential character of the dwelling unit.
- (c) No sale of food or beverage, motorized vehicles or equipment shall be permitted nor shall laundries be permitted, nor shall the repair of motorized vehicles or equipment be permitted nor shall the production or assembly of products or goods be permitted, it being the intent to limit home occupations to those uses which are generally service oriented such as architects, engineers, attorneys, sales representatives, insurance agents, as encompassed in the definition of Limited Offices set forth in Section 2.01(58) of the Code. No occupational use shall be approved unless similar in use and nature to those specifically permitted by this Section and which comply with all

provisions of this Section 4.01(b)(2) and Section 4.10(b)(6). Anything sold or offered for sale shall be limited to that resulting from conduct of the home occupation. (Ord. 2001-19).

- (d) No equipment is used which would create any dust, noise, odor, glare, vibrations, electrical disturbances, or interfere with the occupancy of neighboring residential property or the character of the neighborhood, including radio, telephone, television or cable television reception and electric line voltage fluctuations beyond the lot, nor shall any use be engaged in, in which the use of hazardous chemicals or substance are used in the home occupation.
- (e) The use does not attract any greater number of automobiles at any one time than three (3) nor more than ten (10) in any one day, other than those owned and used by the people residing in the dwelling unit and the one possible assistant permitted to work at the dwelling unit. No visitors shall be permitted between the hours of 10:00 P.M. and 8:00 A.M. except in the event of an emergency.
- (f) No accessory building shall be used for home occupations nor for storage of any products, materials or other personal property related to the carrying out of the home occupation.
- (g) The total floor area used for all home occupations engaged in on the lot shall not occupy more than three hundred (300) square feet of the dwelling unit.
- (h) No home occupation shall be engaged in where any portion of the activity takes place other than inside the dwelling unit.
- (i) More than one (1) occupant of the dwelling unit may engage in a home occupation, so long as the total square footage devoted to the home occupations of all occupants does not exceed three hundred (300) square feet of the dwelling unit.
- (j) A sign shall be limited to those permitted in Residential District.
- (k) Home occupations shall conform with the performance regulations of this Code.
- (l) The home occupation must be clearly incidental to the main use of the dwelling unit which is the primary residence of the persons engaged in the home occupation, with the exception of one assistant who may reside elsewhere and who does not own any portion of the home occupation being engaged in by the residents of the dwelling unit. (Amended by Ord. No. 1994-54, passed 11-14-94)

3. Rented Rooms: Not more than one (1) room may be rented by the resident family in a dwelling unit to not more than one (1) person, provided:

- (a) The exterior character of the dwelling is not changed.
- (b) The required off-street parking is provided.
- (c) Such occupancy complies with all other applicable Municipality, County and State law.

4. Fences: Fences may be permitted along the side or rear lot lines (set back at least 3' from the actual boundary line), provided at least 25 percent of the vertical surface is open to light and air. Such fences are permitted to a height not exceeding six (6) feet above the finished grade, except for fences along the side lot lines which run between the street and the front line of the residential structure, which shall not exceed three (3) feet in height. However, split-rail fences along such front side lines are permitted to a maximum height of four (4) feet. [For purposes of this Section, "boundary line" shall mean the outside perimeter line of property as set forth in the legal description contained in the deed for such property, except for property held in condominium ownership or in a private cluster residential development, where "boundary line" shall mean the outside perimeter line of the then existing common area of either the condominium development where such individual condominium is situated or the private cluster residential development where such single family detached dwelling is located]. (Amended by Ord. 1992-9, passed 02-24-92)

No fences are permitted along front lot lines with the exception of split rail fences which shall not exceed four (4) feet in height.

All fences shall be of uniform design and well maintained.

5. Landscaping: Landscaping shall be permitted but shall be regulated so that it will not substantially interfere with traffic safety or the reception of light, air or natural drainage on adjacent property. Trees, bushes, shrubs and other plantings shall not exceed thirty-six (36) inches of height when such are either within the right of way or within thirty-five (35) feet of the center line of any right of way or street.

6. Domestic Animals & Greenhouses: Commercial kennels, animal boarding facilities, veterinarian clinics and commercial greenhouses shall not be permitted in residential districts. An enclosed structure shall be provided for the housing of all horses and said structure shall be in compliance with the regulations of this Code.

7. Private Garages: A two-car private garage, attached to each one-family dwelling, and at least two (2) parking spaces per dwelling unit for any two-family or multi-family dwelling, shall be required.

8. Private Pools & Ponds: Private pools and ponds shall be permitted, provided:

- 1. The pool or pond shall be used solely by the occupants of the lot on which it is located and their guests.
- 2. The pool or pond including pump, filter and accessories thereto shall not be located in a front yard unless otherwise permitted under this Chapter.

3. The pool, or pond shall be so fenced as to prevent uncontrolled access by children from the street or adjacent properties.
4. Drainage shall be subject to approval by the Engineer.
5. Any lighting used to illuminate the pool or pond shall be so arranged as to deflect light away from adjoining property.

9. No mobile home or manufactured home shall be placed, installed, constructed, located on or occupied in a residential district. A mobile home, for the purpose of this paragraph, shall mean a structure, transportable in one or more sections, which is built on a chassis or is designed to be built on a chassis, and designed to be used as a dwelling with or without a permanent foundation. A manufactured home shall be defined, for the purpose of this paragraph, as a manufactured home is defined in Section 5402(6), Title 42, U.S. Code and Ohio Revised Code Section 4501.0(0). A manufactured home also means a structure for which a certification, as described in Section 5415, Title 42, U.S. Code, has been furnished or fixed in the form of a label or tag, whether or not such label or tag has been removed. A structure is a mobile home whether or not axles, chassis, hitches, wheels or other appurtenances of mobility have been removed and regardless of the nature of the foundation provided. A mobile home and/or a manufactured home shall not be defined to include an industrialized unit as defined in Ohio Revised Code Section 3781.10 for which a letter of certification and insignia have been issued by the Ohio Board of Building Standards pursuant to Ohio Administrative Code 4101:2-1-62(A). (Ord. 1989-1, adopted January 9, 1989).

(c) Temporary Structures: Temporary structures for construction operations, including field offices, storage of materials, and workshops for assembly of components, may be permitted on undeveloped lots, if such structures are found necessary for the construction operations for which a building permit has been issued, provided such temporary structures shall be located at least 200 feet from the nearest occupied residential dwelling and shall be removed within 30 days after the completion or discontinuance of the work.

(d) Soil Removal: Soil, sand or gravel shall not be stripped or removed in any district except in conformity with the requirements of Chapter 1466, erosion and sediment control of the Codified Ordinances for the Village of South Russell.

10. Parking of Recreational Vehicle.

(1) Any recreational vehicle may be parked or stored outdoors in a residential zoning district on a paved or gravel surface only, subject to the regulations contained herein.

A. No recreational vehicle shall be parked or stored unless it is titled to or leased and used exclusively by one of the permanent occupants of the residence where the recreational vehicle is located.

B. A recreational vehicle shall not have connections to water, gas or sanitary sewers, but may be connected to electricity.

C. A recreational vehicle shall not be used for living, housekeeping or similar purposes, including the harboring of animals or pets.

D. A recreational vehicle parked or stored outside a garage or enclosed structure shall not be parked or stored in the front yard of the lot and shall be stored or parked at least ten feet from the side and rear lot lines of the lot.

E. A recreational vehicle parked outside of a garage or enclosed structure shall be licensed pursuant to State law.

F. A recreational vehicle may be parked on any premises for loading or unloading purposes for a period of not more than forty-eight (48) hours so long as such parking does not obstruct pedestrian or vehicular traffic of adjoining or abutting properties.

G. No person, being the owner or operator of a recreational vehicle, shall park or store such vehicle in a residential zoning district of the Village in violation of any of the regulations set forth in this section.

H. No person, being the owner and/or occupant of or having possession of real property in a residential zoning district of the Village shall permit a recreational vehicle to be parked or stored thereon in violation of any of the regulations set forth in this section.

I. No more than one recreational vehicle per premise may so be parked.

J. A recreational vehicle parked or stored outdoors must be adequately screened, if visible from any adjoining premises, as approved by the Building Inspector.

4.02 AREA, YARD & HEIGHT REGULATIONS - In residential districts, structures and land shall be used, and structures shall be erected, altered or moved in whole or in part, only according to the following chart and regulations:

(a) Maintenance of Lot Area & Width: A parcel of land may be divided into two or more lots, provided all lots resulting from such division conform to all lot area and width regulations of the district in which it is located. A lot of record, whether vacant or occupied by a structure, which has an area or width equal to, or less than required by this Code, and which was owned separately from adjoining lots on the effective date of this Code, shall not be further reduced in any manner. The required lot area which is provided for a dwelling or other use shall not be considered as providing any part of the required lot area for another dwelling or use.

(b) Lots of Insufficient Area or Width: A lot of record which does not comply with the lot area or width regulations of the district in which it is located on the effective date of this Code shall be non-conforming and may be used as set forth in other provisions of this Code.

(c) Maintenance of Yard Dimensions: The required yards surrounding a structure shall not be separated in ownership from the part of the lot upon which the structure is located, and no part of a required yard shall be considered as providing a yard for any other existing structure. A yard shall not be reduced to less than the required dimensions for the district in which it is located and a yard of less than the required width shall not be further reduced unless authorized by other provisions of this Code. Every required yard shall be open and unobstructed from the ground upward.

RESIDENTIAL DISTRICT REGULATIONS

District	Permitted Use (1)	Minimum Lot Area (Acres) (13)	Maximum Lot Coverage	Minimum Lot Width (Ft.)	Density (Dwelling Units per Acre of Net Area (1))	Min. Front Yd (2)	Min. Yd. Side Yd.	Dimensions (Ft.) Rear Yard	Maximum Height (Ft.)	Min. Dwelling Unit Area (Sq. Ft.) One Floor	More than One Floor
R-1-A	<u>Main:</u>										
	• Agriculture	5	35%	130 (5)		5	(5)	(5)	30		
	• One-Family Dwellings	(7) 1		130	(1) 1	75	25	50	(14)	2000	2400
	• Municipal Cemetery	N/A		NA	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-1-B	<u>Main:</u>			(5)							
	• Agriculture	5	35%	150	-	(5)	(5)	(5)	30		
	• One-Family Dwellings	(7) 1½		150	.667	75	25	50 50	(14)	2000	2400
	• Municipal Cemetery	N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-1-C	<u>Main:</u>			(5)							
	• Agriculture	5	35%	150	-	(5)	(5)	(5)	30	2000	2400
	• One-Family Dwellings	(7)		150	.50	75	25	50	(14)	2000	2400
	• Conservation Development District	2 30	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)
• Municipal Cemetery	N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
R-1-D	<u>Main:</u>										
	• Agriculture	5	35%	150 (5)	-	(5)	(5)	(5)	(5)		
	• One-Family Dwellings	(7)		150	.40 (1)	75	25	50	(14)	2000	2400
	• Conservation Development District	2 ½ 30	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)
• Municipal Cemetery	N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	

R-1-A	<u>Accessory:</u>							
R-1-B	Structures	-	-	-	(3)	20	20	15
R-1-C	Home	(5)	(5)	(5)	(5)	(5)	(5)	-
R-1-D	Occupations							
	Rented Rooms	-	-	-	-	-	-	-
	Fences	-	-	-	(12)	3	3	6/3 (12)
	Landscaping	-(6)	-	-	10	3	3	-
	Horse Area	2½	-	-	(3)	50	50	15
	Private Garages	-	-	-	75	20	50	15
	Private Pools &	-	-	-	(3)	20	20	-
	Ponds							
	Parking	-	-	-	(3)	20	20	-

Ord. 1993-97, adopted August 16, 1993

RESIDENTIAL DISTRICT REGULATIONS (continued)

District	Permitted Use (1)	Minimum Lot Area (Acres) (13)	Maximum Lot Coverage	Minimum Lot Width (Ft.)	Density (Dwelling Units per Acre of Net Area (1))	Min. Front Yd (2)	Min. Yd. Side Yd.	Dimensions (Ft.) Rear Yard	Maximum Height (Ft.)	Min. Dwelling Unit Area (Sq. Ft.) One Floor	More than One Floor
RN-1	<u>Main:</u>										
	• One Family Dwellings	(7) 1	35%		(1) 1	75	25	50	(14)	2000	2400
	• One-Family Dwellings (Residential Neighborhood Development)	100			(8)	50	(9)	35	(14)	2000	2400
	• Municipal Cemetery	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
RN-1	<u>Accessory Structures</u>	-			-	(3)	20	10	15		
	Home Occupations	(5)			(5)	(5)	(5)	(5)	(5)		
	Fences	-			-	(3)	3	3	6		
	Landscaping	-			-	10	3	3	-		
	Private Pools & Ponds	-			-	(3)	20	20	-		
	Parking	-			-	(3)	15	15	-		
	Municipal Cemetery	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-2	<u>Main:</u>										
	• One Family Dwellings (1)	(7) 1	35%		(1) 1	- 75	- 25	- 50	- (14)	- 2000	- 2400
	• Two Family Dwellings (1)	10			(1) 1	- 75	- (4)	- (4)	- (14)	- 2000	- 2400
	• Multifamily Dwellings (1)	100			1	(4)	(4)	(4)	(14)	2000	2400
	• Private Cluster	50			1	(4)	(4)	(4)	30	2000	2400

Residential Development	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
• Municipal Cemetery (1)									

Accessory:
SAME USES, AREA, YARD AND HEIGHT REGULATIONS AS R-1 DISTRICTS

RESIDENTIAL DISTRICT REGULATIONS (continued)

District	Permitted Use (1)	Minimum Lot Area (Acres) (13)	Maximum Lot Coverage	Minimum Lot Width (Ft.)	Density (Dwelling Units per Acre of Net Area (1))	Min. Front Yd (2)	Min. Yd. Side Yd.	Dimensions (Ft.) Rear Yard	Maximum Height (Ft.)	Min. Dwelling Unit Area (Sq. Ft.) One Floor	More than One Floor
R-3	<u>Main:</u>		35%								
	• Elderly Assisted Living Facilities	10		250	(11)	300	100	100	25		
	• One Family Dwellings	(7) 1		130	(1) 1	75	25	50	(14)		
	• Municipal Cemetery	N/A		N/A	N/A	N/A	N/A	N/A	N/A		
	<u>Accessory:</u>	-		-	-	(3)	30	30	30		
	Parking	- (6)		-	-	(3)	20	20	-		
	Ponds	21/1		-	-	(3)	50	50	15		
	Horse Areas										

RESIDENTIAL DISTRICT REGULATIONS (continued)

- (1) See definitions given in Chapter 2 of this Code
- (2) Except as otherwise shown on the Zoning Map
- (3) Not Permitted
- (4) Dimension determined by applicable formula of Section 4.02(g) of this Code; but in no case shall developed area, including streets, driveways and parking lots, exceed 40% of the lot area or a dwelling be located closer than 400 feet from Bell Road or Chillicothe Road (State Rt. 306) unless permitted in a private cluster residential development by the Commission.
- (5) All buildings shall comply with One-Family Dwelling regulations
- (6) Only one horse permitted; add 1/2 acre of land devoted exclusively to horse areas per additional horse
- (7) Where approved by Planning Commission, this minimum may be reduced by up to 1/4 acres, where said 1/4 acre is set aside as Common Land as defined in the Subdivision Regulations.
- (8) 1-1/4 acres per unit of development area
- (9) 10 feet one side, total of both side yards 25 feet, and the minimum distance between dwellings shall be 25 feet
- (10) Maximum lot coverage including structures, parking areas and driveways shall not exceed 40% of the lot area nor shall structures exceed 25% of the lot area
- (11) 10 residents per acre
- (12) See Section 4.01(b)(4)
- (13) Any land located in a groundwater sensitive zone shall comply with the minimum lot area requirement designated on the Groundwater Sensitive Zone Map if the minimum lot area designated on such map exceeds the minimum lot area set forth in this Section 4.02.
- (14) Except as hereinafter set forth, the maximum height of any one-family structure shall be thirty-three (33) feet as measured from the average finished grade at the perimeter of the structure to the highest point of the structure. The Commission may allow a maximum height of any one-family structure of thirty-five (35) feet, as measured from the average finished grade at the perimeter of the structure to the highest point of the structure, upon application for developmental review approval, pursuant to Section 3.04 of this Code to the Commission for relief in circumstances where the Commission determines that the lot upon which the structure will be located has topographical features in the rear and/or side yards which cause the calculation of the average finish grade to create practical difficulties for the lot and where the Commission also finds that there will be no material adverse effect on surrounding properties, whether homes exist or not at the time of application, and the topography of the contiguous lots will not create an adverse impact upon the existing or future development of such contiguous lots and will not create a need, by the grant of an increase, by itself, for an increase in the maximum height to be granted to contiguous lots, when developed, in order to visibly conform to the structures surrounding the contiguous lots. In addition, two-thirds (2/3) of the entire roof mass of any one-family structure which is permitted to exceed thirty-three (33) feet must be equal to or greater than three (3) feet below the highest point of the roof. The maximum height permitted in a private cluster residential development shall not exceed thirty (30) feet. The maximum height of any structure shall not exceed thirty (30) feet if there is any side yard of less than twenty-five (25) feet on the lot. The Zoning Board of Appeals shall have no authority to grant any variances to height regulations in Chapter Four. The Commission shall be authorized to grant variances to height regulations in Chapter 4 where the permitted side yards and actual side yards utilized on the lot will each be at least twenty-five (25) feet with a minimum of fifty (50) feet of separation between one-family structures, so long as the contiguous lots on either side of the lot are required by this Code to have twenty-five (25) foot side yards. In the event a variance has been granted to allow less than twenty-five (25) foot side yards on the lot in question or on any contiguous lot, no variance shall be granted by the Commission to the height regulations contained herein. In R-1-C and R-1-D Districts, the maximum height of single-family structures may be thirty-five (35) feet when the actual side yards will be at least thirty-five (35) feet each and the front yard will be one hundred (100) feet on the proposed lot and no developmental review shall be required pursuant to Section 3.04.
- (15) See Section 4.02 (j)

(d) Front Yards in Partially Built-Up Blocks: Where a building line has not been established by a map or ordinance, and where 50% or more of the aggregate street frontage between two successive intersecting streets or in an intersecting street and its terminal point is occupied by structures of the type and use permitted in the district before the effective date of this Code, the minimum front yard for new structures shall be the same as existing structures located within 150 feet on either side of a given lot, provided the depth of the front yard resulting therefrom shall be not less than one-half the dimension given on the chart set out above.

(e) Yards of Corner Lots: The depth of the front yard and side yard fronting on the side street of a corner lot shall be not less than the required setback from the front lot line given on the chart set out above, unless shown otherwise on the Zoning Map. The interior side yard and rear yard of a corner lot shall be not less than given on the chart set out above.

(f) Accessory Structures: Other than fences as set forth in Section 401(b)(4) above, accessory structures permitted in residential districts shall not project into a front yard. Accessory structures may be located in side or rear yards according to the chart set out above. On corner lots accessory structures shall be set back from the side street line a distance not less than the setback required for the main use, plus five (5) feet. No accessory structure shall be erected or set upon a lot prior to erection of the main structure on the lot or commencement of the main use on the lot.

(g) Two Family, Multi-family, Private Cluster Residential Development, and Elderly Assisted Living Yard Regulations: In order to encourage flexibility in design, more attractive arrangements of buildings and greater utilization of open space, yards of two-family, multi-family buildings, private cluster residential development, and elderly assisted living buildings shall be related to the space within the development and be arranged so as to assure privacy between adjacent buildings, streets, parking and open spaces according to the following regulations: (Amended by Ord. 1992-9, passed 2-24-92)

(1) The terms used in this section are defined as follows:

- a. "Single Development": Development of one (1) multi-family building, elderly assisted living building, or one (1) detached single family dwelling in a private cluster residential development on one (1) lot or Envelope coordinated with the surrounding neighborhood and fronting on a dedicated street, or, in the case of a private cluster residential development, on a spur road.
- b. "Group Development": Development of more than one multi-family building, elderly assisted living building, or detached single family dwelling in a private cluster residential development, on a lot or on Envelopes planned as a unit or cluster and coordinated with the surrounding neighborhood.
- c. "Main Wall": Any exterior wall of a multi-family building or detached single family dwelling in a private cluster residential development containing the principle windows of living, dining or sleeping rooms.

- d. "End or Secondary Wall": Any exterior wall of a multi-family building, elderly assisted living building, or detached single family dwelling in a private cluster residential development, other than a main wall.
- e. "Overlapping Walls": That portion of exterior walls which is directly opposite two buildings, which are parallel or within 30 degrees of being parallel.
 - (2) The distance between facing and overlapping buildings or parts thereof, in a group development shall vary in direct relation to the length and height of buildings. Such distance shall be determined by the formula:

$$\text{Minimum Distance} = \frac{LA + LB + HA + HB}{F}$$

The elements of the formula are defined as follows:

- a. "Minimum Distance": The required minimum horizontal distance between any wall of building "A" and the nearest wall of building "B" or the vertical prolongation of either.
 - b. "LA": The total length of building "A" which is the maximum length of the portion of portions of any wall or walls from which lines drawn perpendicular to the face of such wall or walls will intersect any wall of building "B", or boundary line.
 - c. "LB": The total length of building "B" which, is defined as the maximum length of the portion or portions of any wall or walls from which lines drawn perpendicular to the face of such wall or walls will intersect any wall of building "A".
 - d. "HA": The height of building "A".
 - e. "HB": The height of building "B".
 - f. "F": The divisor which is "4", provided, the minimum distance between main walls of facing and overlapping buildings or yards shall not be less than 50 feet.
- (3) The distance between angular arrangements of 30° to 60° shall be determined by the formula:

$$\text{Minimum Distance} = \frac{2LB + HA + HB - K}{F}$$

The elements of this formula are the same as previously defined, except that the term "K" is the sine of a 2n where "n" is the angle from building "B" to building "A" or extension thereof, and "n" is:

- 30° to 34° minus K = 10'
- 35° to 39° minus K = 20'
- 40° to 50° minus K = 25'
- 51° to 55° minus K = 20'
- 56° to 60° minus K = 10'

(4) The distances between walls of court arrangements shall be determined by applying the formula of this section to each set of facing walls.

(5) Where the walls of two buildings do not directly face each other or do not overlap--this is, where lines drawn perpendicular from the face of any wall of one building will not intersect the face of any wall of another building--the minimum horizontal distance between such buildings shall not be less than one-half of the combined height of the two buildings. Such distances shall be determined by the formula:

$$\text{Minimum Distance} = \frac{HA + HB}{2}$$

The elements of this formula are the same as previously defined.

(6) The distance between building and boundary lines of a multi-family building, elderly assisted living building, or a single family detached dwelling in a private cluster residential development, in a single development or group development, and any front, side or rear lot line shall vary in direct relation to the length and height of the building. Such minimum distance shall be as determined by the formula:

$$\text{Minimum Distance} = \frac{2 LA + HA}{F}$$

The elements of this formula are the same as previously defined. (Amended by Ord. 1992-9, passed 2-24-92)

(7) Use and design of required yards, set forth in this Chapter, shall be landscaped and may be used for pedestrian walks and passive recreation areas. If yards between buildings are used for parking areas, driveways or playgrounds, the distance between buildings shall be increased by the dimensions of such intermediary facilities. All dwellings shall be located not more than 200 feet from parking areas, the distance to be measured along pedestrian walks. Yards not occupied by any accessory building or use shall be fully landscaped.

(8) Except for single family detached dwellings located in a private cluster residential development, the yard regulations and lot area size set forth for R-2 Districts in this Chapter and in Section 4.02(g) may be reduced, upon approval of the Commission, in accordance with certain standards set forth herein, when property located in such district is developed as a single family detached dwelling, platted subdivision, so long as said sublots maintain a lot width at the building set-back line intersecting at each side yard line of at least 100', and so long as the minimum distance between residential structures is 30' and maintain

a minimum side yard of 10' and the minimum set-back from the right-of-way to any structure is 50'. The reduction for each subplot shall be the minimum necessary to carry out the intent of the Municipality to encourage single family detached structures, in Multi-Family Districts, and shall only be granted where, due to topographical features of the land, inadequate drainage of the land, adverse effects of public utility transmission lines, and soil conditions the subdivision cannot be laid out in accordance with Section 4.02. The Commission may grant such reductions at the time of submission of a final plat in accordance with the subdivision regulations of the Municipality. Only such sublots as are the minimum necessary to achieve the purpose of this Section, shall be reduced. In no event shall the Commission allow the reduction to create greater density than permitted by Section 4.02 nor shall any subplot be located other than upon a dedicated public roadway, improved in accordance with the improvement standards of the Municipality. (Amended by Ord. 1992-9, passed 2-24-92)

In a private cluster residential development, the Commission may modify the formulas set forth in Section 4.02(g) to permit dwellings to have a minimum front yard, as measured from the edge of the improved, paved portion of a spur road to the front wall of the dwelling, of 25 feet and to permit dwellings to maintain a minimum distance of the greater of 25 feet from each other, or the height of the highest dwelling subject to measurement, where the Commission finds that such reductions will not adversely affect the health, safety, or general welfare of the future residents of the development, surrounding property and the Village as a whole and where such reductions are compelled by unique characteristics located on site, such as protected wetlands and recharge areas for groundwater supplies providing a potable water supply to residents in the area of the aquifer. Such finding and reduction shall be made at the time the private cluster residential development is submitted for preliminary plat review or if there is no preliminary plat submitted, at the time of final plat review. No public hearing shall be required, before such reductions are granted, but the Commission shall cause the Developer to provide notice of any request for reductions of front yards or distance between dwellings to all property owners contiguous, adjacent or across the street from the property which is proposed for private cluster residential development. (Amended by Ord. No. 1992-9, passed 02-24-92)

(h) Residential Neighborhood Developments. In order to encourage flexibility in design, greater utilization of open space, and to preserve the remaining green areas and open areas of the Village and to promote the development of large common areas for recreation and green areas, land may be used in accordance with a residential neighborhood development plan approved by the Planning Commission which plan shall meet the following minimum requirements, and said developments shall be used in residential neighborhood districts designated as RN districts.

(1) The total area of land to be known as a development area shall contain not less than one hundred (100) acres of contiguous land located wholly within the Village of South Russell.

(2) The development area permissible is used exclusively for detached one-family dwellings and accessory uses.

(3) Not less than twenty-five percent of the total development area is reserved as common land for the benefit of the residents of the residential neighborhood.

(4) Each subplot within the development area is at least three-quarter (3/4) acre in size.

(5) The density of the development is not greater than one one-family dwelling per one and one-quarter (1-1/4) acres of the total development area.

(6) The Commission shall give due consideration, in reviewing variances to the subdivision regulations, to the flexibility of layout, contiguous placement of common areas within the development and street lengths and construction in order to carry out the interest of the Village in allowing residential neighborhood development and not violate the spirit of the subdivision regulations.

(7) The applicant shall provide for the formation of a homeowners association of which each subplot owner shall be a member and shall share proportionately the expenses of maintaining the common land for the common benefit of all lot owners in such proportion as may be set forth in deed restrictions, which deed restrictions shall run with the land, and which shall be subject to approval by the Planning Commission of South Russell at the time of development of the plan, and which shall further be subject to the approval of the Planning Commission in the event that any amendment or change is made in said deed restrictions by the applicant or homeowner.

(8) No residential neighborhood development plan shall be approved by the Planning Commission unless the development area is serviced by a public central sanitary sewer facility and no development of a residential neighborhood shall occur unless each dwelling unit is serviced by said public central sanitary sewer system. Unless the area is serviced by such sewer facilities, said property shall be developed in accordance with one-family dwelling regulations as set forth in the R-1-A district.

(9) No residential neighborhood development shall be approved by the Planning Commission unless sufficient evidence is presented to the Planning Commission that adequate groundwater exists within the development area to service each dwelling unit with either private wells located on each subplot or serviced by a central water system. Prior to Planning Commission approval, the Village hydrologist shall review and recommend to the Planning Commission if development should occur and the manner in which water should be provided to residents of the residential neighborhood development. If the Planning Commission determines there is inadequate groundwater, then any property within the residential neighborhood district shall comply with one-family dwelling regulations as otherwise set forth in the R-1-A district.

(i) Private Cluster Residential Development. In order to permit private lot ownership in a residential development where detached one-family dwellings are clustered on private spur roads for efficiency of accessibility, service, design, and arrangement, while preserving commonly owned open spaces for recreation, groundwater recharge, and privacy, land in an R-2 district may be developed as a private cluster residential development in accordance with the following standards and regulations:

(1) The total area of land known as a private cluster residential development shall contain not less than fifty acres of contiguous property located wholly within the Village of South Russell.

(2) The arrangement and spacing of the detached one-family dwellings in said development shall be accomplished in accordance with the formula and regulations set forth in Section 4.02(g) of this Zoning ordinance.

(3) The development shall conform to the minimum and maximum dimensions and density requirements set forth for a private cluster residential development in the chart contained in Section 4.02 of the Zoning Code.

(4) Such development may only be used for detached one-family dwellings and accessory uses.

(5) Each one-family dwelling and all decks, attachments to the dwelling and accessory buildings, to the extent permitted, shall be located entirely within a platted, recorded, deeded tract of land, owned in fee simple, known as an "Envelope", whose dimensions, locations, size, and layout shall be subject to Commission approval through the procedures set forth in the Village's Subdivision Rules as if each Envelope constituted an individual subplot in any other residential subdivision. There shall be no minimum area size for a particular Envelope. The boundaries for each Envelope shall be clearly marked at every angle point by the Developer with iron pins or other permanent monuments in accordance with the Subdivision Rules. The angle points on the back of the lots which abut the common area shall be marked with iron pins or other permanent monuments prior to acceptance of dedication of any public roads and prior to issuance of any building permits for the construction of residences within the Envelopes. The iron pins or other permanent monuments shall be placed at each angle point of an Envelope, which will have access only from a dedicated street, on or before the date that acceptance of dedication of the public road upon which said Envelopes will have direct and exclusive access will occur. As to the Envelopes which will have access solely from spur roads, each angle point of an Envelope shall be marked by an iron pin or other permanent monument on or before the date that the spur road is certified by the Village Engineer as having been constructed in accordance with the development review approval of the Commission and prior to the release of any performance bond issued with respect to such spur road construction. Said Envelopes shall be arranged such that dwellings eventually built thereon will be able to meet the formula requirements of Section 4.02(g) without the necessity of any zoning variances. No Envelope owner shall locate any improvement in the common land other than water wells, as provided in paragraph 6 below.

(6) The Developer shall provide for the formation of a homeowner's association of which each Envelope owner shall be a member and shall proportionately split the expenses of maintaining, repairing and replacing (a) the common land, (b) any spur roads and landscaping thereon, and (c) any drainage improvements for the common benefit of all Envelope owners in such proportion as may be set forth in deed restrictions, which deed restrictions shall run with the land, and which shall be subject to approval by the Commission at the time the development plan is approved for subdivision by the Commission. The deed

restrictions shall provide for maintenance, repair, replacement and additions to the water wells to be located in the Envelopes or on the common land, if required by the ordinances and rules and regulations of the Village, which will provide a potable water supply from the underground aquifers located within the Development to the Envelope owners as required by the Village Hydrogeologist. The deed restrictions shall provide an easement of at least ten (10) feet across the side lines and rear line of each Envelope for the placement of water lines to permit Envelope owners to lay and install, maintain, repair and replace water lines to water wells that may be located on common land which is not adjacent to the Envelope which will be serviced by the water well. Any private cluster residential development shall provide for easements on the plat and in deed restrictions to appropriate public authorities for installation, repair, replacement and maintenance of water, sewer, and drainage easements when necessary for development or improvement of adjacent properties to the private cluster residential development.

(7) The Developer shall further provide permanent easements in favor of each Envelope owner to permit the construction, maintenance, repair, replacement, and use of individual driveways and parking areas from the dedicated streets and spur roads across common areas to individual dwellings located on said Envelopes. The individual driveways shall be either all asphalt or all concrete material throughout the development. The Developer shall further provide easements of access for common, public use to all common land areas within the development for the benefit of each Envelope owner. The development shall meet the open space requirements (except the open space can be less than twenty-five (25) feet from a dwelling) found in Section 4.05 of this Code and the parking requirements set forth in Section 4.07 of this Code.

(8) No dwellings shall be constructed without prior approval of Commission and the Village's Architectural Board of Review in accordance with the development review procedures set forth in Chapter Three of this Zoning Code and the provisions of Chapter 260 of the Codified Ordinances of the Village. The Commission may require the Developer to provide appropriate grading and drainage of surrounding and nearby Envelopes and common areas when deemed necessary when considering development review of any Envelope for construction of a dwelling. The grade plan for each Envelope shall be prepared and delivered to the Village by the engineer for the Developer, regardless of who applies for development review approval of any Envelope(s).

(9) Any spur road within said development shall be subject to the landscaping requirements set forth in Appendix C of the Village's Subdivision Rules for Street Trees and Screening unless modifications are granted by the Commission during subdivision or development review.

(10) Unless waived by the Commission, all improvements shall conform to the requirements set forth in the Village's Subdivision Rules. (Added by Ord. No. 1992-9, passed 2-24-92)

(j) CONSERVATION DEVELOPMENT DISTRICT.

(1) PURPOSES AND OBJECTIVES.

In addition to the applicable provisions stated in Section 4.00, the intent and purpose of the Conservation Development District is to permit in R-1-C and R-1-D zoning districts, subject to Village Council approval of each Conservation Development District, planned developments which:

- (a) have creative and imaginative layouts that respect environmental features;
- (b) have a harmonious and integrated design and visual character;
- (c) maintain the established density of the Village;
- (d) encourage the permanent preservation of open space and natural amenities through the use of conservation easements;
- (e) do not increase the overall density of development within the Village; and
- (f) maintain the overall character of the Village and provide for development that is compatible with surrounding neighborhoods.

(2) DEFINITIONS.

For the purpose of this section of the Zoning Code, the following terms shall have the meaning herein indicated:

(a) CONSERVATION DEVELOPMENT DISTRICT (“District”): A contiguous area of land to be planned and developed as a single entity, in which housing units are accommodated under more flexible standards, such as building arrangements and setbacks, than those that would be applied under single-family district codes, allowing for flexible groupings of houses in order to conserve open space and existing natural resources.

(b) CONSERVATION EASEMENT: A legal interest in land that restricts development and other uses of the property in perpetuity for the public purpose of preserving the rural open, natural, or agricultural qualities of the property as authorized by ORC §5301.67 through 5301.70.

(c) DEVELOPMENT AGREEMENT: The complete package of information and submittals an applicant for a Conservation Development District must have approval by the Village before beginning construction in the District. This Agreement shall contain approved versions of the following:

- (1) Subject parcel’s approval for a Conservation Development District.
- (2) Ohio Environmental Protection Agency approval of the on-site wastewater disposal system.
- (3) Development Plan.
- (4) Conservation Easement.

- (5) Existing Conditions Site Report.
- (6) Yield Plan.
- (7) Stormwater Management Plan.
- (8) Covenants and restrictions for the homeowners association or condominium association.

(d) **DEVELOPMENT PLAN:** A proposal including drawing(s) and map(s) for a Conservation Development District prepared in accordance with this code, illustrating proposed design, layout, and other features for the development and including all elements set forth in this code.

(e) **EXISTING CONDITIONS SITE REPORT:** A document prepared by the applicant for a Conservation Development District. This document shall contain all the information required in Paragraph (16) below and shall be submitted in accordance with the procedures established in this section.

(f) **IMPERVIOUS COVER:** Any paved, hardened, or structural surface regardless of its composition including but not limited to buildings, roads, driveways, parking lots, loading/unloading areas, decks, patios, and swimming pools.

(g) **PRIVATELY OWNED BUILDING LOT:** Those portions of the permitted buildable area of a Conservation Development District associated with each single-family residential unit in the District and solely controlled by the owner of that unit.

(h) **PRIVATELY OWNED OPEN SPACE:** The undeveloped open space on a privately owned building lot. This open space shall not be included in the overall calculation of restricted open space.

(i) **RESTRICTED OPEN SPACE:** Open space within a Conservation Development District that is of sufficient size and shape to meet the minimum requirements of this Section 402(j) and that is restricted from further development according to the provisions of this section. This shall not include open space that is part of a buildable lot.

(j) **YIELD PLAN;** A subdivision layout for a parcel showing the configuration and number of lots possible in a traditional development design for the subject parcel. This traditional subdivision design shall be completed by the applicant in full compliance with all applicable Village codes and in accordance with site constraints shown in the Existing Conditions Site Report submitted under this section.

(3) **ESTABLISHMENT OF CONSERVATION DEVELOPMENT DISTRICTS.**

The following shall govern the establishment of any Conservation Development District:

(a) No Conservation Development District shall be permitted or approved except subsequent to petition by the owner(s) of land proposed to be included within the Conservation Development District.

(b) Unless sewers are available, each Conservation Development District shall be served by an on-site wastewater disposal system approved by the Village in coordination with the Geauga County Board of Health and Ohio Environmental Protection Agency. Said system shall provide for a common system, serving all properties, if practical and feasible, and allowable by those agencies having approval/permitting authority over such systems.

(c) Each Conservation Development District shall have a minimum area of not less than thirty (30) contiguous acres. Property that is contiguous to other property at any point that is burdened by a public right of way shall not be deemed contiguous for the purposes of this code.

(d) Each Conservation Development District shall be developed in conformance with an approved Development Plan that has been reviewed and approved by the Village in accordance with the provisions set forth herein.

(4) PERMITTED USES.

(a) Uses shall be limited to single-family detached or attached residences with permitted accessory uses and structures.

(b) No structure shall contain more than three attached dwelling units.

(5) ACCESSORY USES.

(a) Only those accessory uses and structures permitted in either an R-1-C or R-1-D District, as applicable, identified on the approved Development Plan, referenced in the approved Development Agreement, and specifically authorized by the Planning Commission and Village Council shall be permitted.

(b) Accessory uses and structures shall be combined and minimized so that there will be fewer accessory uses and structures than would otherwise be permitted in a traditional development.

(c) The total aggregate building ground coverage of all accessory structures and uses within a Conservation Development District shall be considered in the maximum allowable impervious cover calculation for the Development Plan.

(d) The maximum building ground coverage of any individual accessory structure or use shall not exceed the maximum permitted under the Zoning Code.

(e) The number of swimming pools, tennis courts, and similar accessory structures or uses shall be limited to not more than one (1) of each such structure or use for every six (6) dwelling units.

(6) DEVELOPMENT STANDARDS.

The following development standards shall apply to all Conservation Development Districts:

(a) Density of Dwelling Units. The maximum density of dwelling units shall be as set forth on the approved Development Plan. Except as provided herein, the density shall not be greater than the permitted density determined by a Yield Plan for a conventional lot subdivision for the proposed District that conforms to all Village zoning standards for a non-conservation development district. If the Development District contains at least fifty (50) acres, the maximum density may be increased by 10% over the Yield Plan maximum, with a minimum of two (2) additional residences.

(b) Restricted Open Space.

(1) Restricted open space shall be as set forth on the final approved Development Plan provided, however, that the land area designated for restricted open space shall not be less than fifty (50%) of the total land area of the Conservation Development District, unless the Development District contains more than forty (40) but less than fifty (50) acres in which case the restricted open space shall not be less than forty-five percent (45%) of the total area, or unless the Development District contains more than fifty (50) acres, in which case the restricted open space shall be not less than forty percent (40%) of the total land area. Restricted open space shall be located and designed to be integrally related to the overall design of the development and to conserve and protect significant natural features such as floodplains, steep slopes, wetlands, woodlands, streams, lakes, historic features, and other environmentally sensitive areas. Restricted open space shall be kept in its natural state except for generally accepted woodland and field management practices and unless authorized in an approved Development Plan.

(2) The restricted open space shall be made subject to a perpetual conservation easement in a form approved by the Village in favor of an organization or agency acceptable to the Village, or in favor of the Village, as determined by the Village. Conservation easements shall include the Village as third party beneficiary of the terms of the easement with the right, but no obligation, to enforce the provisions of the easement.

(3) All of the restricted open space within a Conservation Development District shall be contiguous unless otherwise specifically authorized by Village Council. It is preferred that proposed restricted open space abut areas that have existing conservation easements.

(4) Restricted open space shall not be used for the location of on-site wastewater disposal systems or structural stormwater management practices.

(5) No portion of any privately owned building lot within a Conservation Development District shall be included in the calculation of restricted open space for the purposes of complying with the requirements of Paragraph (1) above.

(c) Maximum Height. Buildings shall comply with the provisions of either R-1-C or R-1-D as applicable.

(d) Maximum Building Ground Coverage. The maximum coverage for a single-family dwelling shall be 4,000 square feet. The maximum coverage for a building containing two (2) attached dwellings shall be 7,000 square feet. The maximum coverage by a building containing three (3) attached dwelling units shall be 10,000 square feet.

(e) Access and Street Requirements.

(1) All streets constructed as part of a Conservation Development District shall be public streets, but private spur roads may be permitted for access to individual residences where such spur roads do not serve an interconnection function between the public streets.

(2) Public streets will meet Village standards in place at the time of application and shall be designed as approved by the Village Engineer. Spur roads, if permitted, must meet the standards as established by the Village Engineer which in his opinion are reasonably necessary in light of the nature of the purpose and use of such spur road.

(3) Each dwelling unit shall have access to a public street or to a spur road internal to the Conservation Development District in a manner approved by the Village and said access shall be defined on the Development Plan.

(f) Setbacks and Separations: If developed as a condominium development, dwelling units within a Conservation Development District shall be a part of a condominium arrangement in accordance with Chapter 5311 of the Ohio Revised Code. For all developments, building setbacks and separations shall be as established on the approved Development Plan. In establishing said setbacks and separations, Village Council shall consider the spacing necessary for adequate visual and acoustical privacy, adequate light and air, fire and emergency access, building configurations, energy-efficient siting, and the relationships of building sites to circulation patterns. In no instance shall the established setbacks and/or separations be less than those required by the underlying zoning or the following, whichever is more restrictive:

(1) No building, structure, or parking area shall be located closer than one hundred (100) feet to the right-of-way line of an existing public street.

(2) No building, structure, lighting or parking area shall be located closer than one-hundred (100) feet to any Development Plan boundary line.

(3) Buildings and accessory structures in Conservation Development Districts shall be located no closer than fifty (50) feet from the edge of pavement or edge of easement of any spur road constructed as part of the Conservation Development District.

(4) The minimum distance between buildings shall be fifty (50) feet.

(5) The setback and separation codes contained herein shall not apply to structures such as boundary fences, driveways, entry gates, and gateposts.

(g) Architectural Design. Architectural treatments shall demonstrate a cohesive design concept that promotes compatibility among buildings and structures and reflects the character of the Village.

(h) Stormwater Management. All Conservation Development Districts shall provide for stormwater management and erosion and sediment control in accordance with the provisions of the Subdivision Regulations and any other applicable Village regulation. Plans for stormwater management and erosion and sediment control shall be subject to the review and approval of the Village Engineer. No structural stormwater management facilities shall be located within the restricted open space.

(i) Fire Protection. All Conservation Development Districts shall make provisions for fire protection that shall conform to the standards and specifications of the Village.

(j) Lighting. Lighting in a Conservation Development Districts shall be in accordance with Village regulations and as approved by the Planning Commission.

(k) Impervious Cover - Not more than ten percent (10%) of the total area of any Conservation Development District shall be impervious. For purposes of this code, impervious cover shall not include ponds.

(7) APPLICATION REQUIREMENTS AND PROCEDURES.

(a) Property owners who wish to have their land approved for a Conservation Development District shall complete the following steps:

(1) Provide notice to the Planning and Zoning Commission of intent to pursue a Conservation Development District on a parcel.

(2) Present a preliminary Existing Conditions Site Report prepared in accordance with the provisions of this code to the Planning Commission and request preliminary approval to pursue a Conservation Development District. This preliminary presentation to the Planning Commission is intended to notify the Village of the potential for a Conservation Development District on a specific parcel and to make the property owner aware of any potential development issues. The Planning Commission will take no formal action on the preliminary Existing Conditions Site Report at this step.

(3) Finalize with the Village Engineer the Existing Conditions Site Report, the Yield Plan, and the preliminary Development Plan for the Conservation Development District.

(4) Referral to Architectural Board of Review. Review and comment of that Board may be required in advance of any formal action by Planning Commission related to preliminary plan approval.

- (5) Present the documents in Paragraph (3) above to the Planning Commission to request approval of the parcel for a Conservation Development District.
- (6) Any approvals granted by Planning Commission shall be forwarded to Village Council as detailed in Paragraph (b) below.
- (b) Applications for approval of a Conservation Development District shall be made by filing an application to Village Council. Said application shall be heard and action taken in accordance with the procedures and provisions set forth herein. The following submission requirements shall also be submitted with all applications for approval of a Conservation Development District:
 - (1) Existing Conditions Site Report, Yield Plan, and Preliminary Development Plan, all conforming to the requirements of Paragraph (16). Additionally, applications shall include a Proposed Development Agreement with an approvable form of the Conservation Easement.
 - (2) A Stormwater Management Plan that addresses the proposed methods of controlling stormwater runoff and mitigating erosion and sediment impacts.
 - (3) Proposed covenants and restrictions intended to govern the development and future use of the Conservation Development District including a perpetual maintenance plan setting forth the proposed ownership arrangement, maintenance responsibility, and financing method for all recreation facilities, common parking areas, private streets, stormwater structures, and other commonly owned facilities.

(8) PROCESSING OF PRELIMINARY DEVELOPMENT PLANS AND REZONING APPLICATIONS.

- (a) Once an application is deemed complete by the Building Commissioner, the applicant shall present to the Planning Commission for review the preliminary development plan per Paragraph (7). The Planning Commission may refer the submittal to the Architectural Board of Review.
- (b) The Planning Commission shall review the comments and/or recommendations provided by the Architectural Board of Review. Once this review is complete, the Planning Commission shall determine whether to forward the preliminary Development Plan to Village Council.
- (c) If the Planning Commission provides its approval under Paragraph (b) herein, the applicant shall present the preliminary Development Plan to Village Council.
- (d) If Village Council approves the preliminary Development Plan, the applicant shall proceed with preparation and presentation of the final Development Plan. Said final Development Plan shall be approved consistent with procedures in place for final subdivision approval in place at the time of final plan submittal. Final Development Plan submittal shall include all elements required by Paragraph (17) below.

(9) REVIEW CRITERIA FOR PRELIMINARY DEVELOPMENT PLANS.

When reviewing an application for a Conservation Development, Village Council, the Planning Commission, and the Architectural Board of Review shall consider, but shall not be limited to consideration of, the following characteristics of the proposed development:

- (a) The comprehensive nature and design of the preliminary Development Plan, including appropriate design of the physical, aesthetic, and economic relationships among its parts;
- (b) The anticipated impacts of the proposed development upon the Village and upon adjoining and proximate neighbors and properties;
- (c) The proposed architectural and site design characteristics;
- (d) The nature and extent of proposed landscaping, existing vegetation and landform to be retained, and of proposed screening and buffering;
- (e) The suitability of the proposed separations between buildings, including any proposed setbacks or yards:
and
- (f) Conformance with the maximum density as established by this chapter based upon the Yield Plan.

(10) ARCHITECTURAL BOARD OF REVIEW

If referred to the Architectural Board of Review, the Board shall act upon the preliminary Development Plan within forty-five (45) days of the date the application was referred from the Planning Commission. The Architectural Board of Review may recommend either approval, approval with modifications and/or stipulations, or denial of the preliminary Development Plan to the Planning Commission.

(11) APPROVAL OF PRELIMINARY DEVELOPMENT PLANS.

- (a) In addition to considering the review criteria as provided in Paragraph (9) above, the Planning Commission may take into consideration the recommendation of the Architectural Board of Review, but is not bound by such recommendation.
- (b) The Planning Commission shall act upon Preliminary Development Plans within sixty (60) days of the date the application was deemed complete by the Building Commissioner and Village Engineer or, if applicable, the date Architectural Board of Review herein acted under Paragraph (10) above, whichever is later. The Planning Commission may recommend approval, approval with modifications and/or stipulations, or denial of the preliminary Development Plan to Village Council.
- (c) Village Council shall act by motion upon the preliminary Development Plan within sixty (60) days of receipt of the recommendation of the Planning Commission.

(12) SUBMISSION OF FINAL DEVELOPMENT PLANS.

Final Development Plans conforming to the requirements of Paragraph (17) below submitted to the Planning Commission for review shall be based on a previously approved preliminary Development Plan and may be for portion or phases of the entire project. Final Development Plans shall be submitted at least thirty (30) working days prior to the meeting at which said plans will be reviewed by the Planning Commission. A minimum of ten (10) copies shall be submitted. Submission shall include fees and deposits as established by Village Council.

(13) APPROVAL OF FINAL DEVELOPMENT PLANS.

The Planning Commission shall review each final Development Plan and shall make a recommendation to Village Council regarding same within forty-five (45) days of the date at which said final Development Plan is first heard by the Planning Commission unless such time is extended with the consent of the applicant. The Planning Commission may suggest, and Village Council may attach, such conditions to the approval of a final Development Plan as may be reasonably required by the public health, safety and welfare and deemed appropriate to carry out the purposes and intent of this code. Village Council shall act by motion upon each final Development Plan referred by the Planning Commission within forty-five (45) days of receipt of the Planning Commission's recommendation provided, however, that said time period may be extended by Village Council with the consent of the applicant.

(14) COMPLIANCE REQUIRED.

- (a) Subsequent to the approval of a Development Plan for Conservation Development District, all site plans, building permits, zoning certificates, and other plans for improvements and any development or construction within the Conservation Development District shall be in substantial compliance with the approved final Development Plan and Development Agreement and any conditions of such approval adopted by the Village in approving the Conservation Development District.
- (b) Any departure from the approved final Development Plan and any conditions or Development Agreements attached thereto, shall be deemed to be a violation of this code. When the Building Commissioner determines that a proposed plan, request for zoning certificate, development or construction may not be in compliance with the final Development Plan, he shall take appropriate action as authorized by this Zoning Code to compel compliance.

(15) AMENDMENTS TO DEVELOPMENT PLANS.

The owner, homeowners association, or condominium association of an approved Conservation Development District may submit plans for amendment of the approved final Development Plan. The Planning Commission and Village Council shall review such proposed modifications to the final Development Plan and may grant approval of such changes if the Planning Commission and Village Council determine that all of the following are met:

- (a) The amendment is generally in conformance with the form, nature, and intent of the approved final Development Plan;
- (b) The total number of dwelling units within the Conservation Development District will not be increased;
- (c) The percent of impervious cover on the total area of the Conservation Development District will not be increased above ten percent (10%); and
- (d) The amount of restricted open space will not be reduced.

(16) SUBMITTAL REQUIREMENTS

Each application for a Conservation Development District shall include six (6) copies of the following documents drawn to scale and these documents shall include, at a minimum, the following data:

(a) Existing Conditions Site Report

- (1) The name of the development, the name of the owner or developer, north arrow, date, and scale;
- (2) A boundary survey;
- (3) Existing topography and proposed finished grade with a maximum two foot (2') contour interval;
- (4) Floodplains, wetlands, and watercourses: These site features shall be based on best available record information and wetlands and watercourses shall be based on a delineation performed in accordance with US Army Corps of Engineers requirements in place at the time of application of this code. This delineation does not have to be approved by the U.S. Army Corps of Engineers when the preliminary Development Plan is submitted but must have Corps' approval with the submission of final Development Plans;
- (5) Isolated lands. Isolated land shall be any portion of the parcel that is separated from the remainder of the parcel by a slope exceeding 25%, a Ohio Environmental Protection Agency Category 2 or 3 wetland, a watercourse, or other feature that would not support a road and/or crossing under normal building standards and applicable state and federal permit requirements, thus rendering the isolated portion unbuildable under conventional development standards and applicable local, state, and federal codes;
- (6) Threatened and endangered species; and
- (7) A hydrogeological report regarding groundwater availability.

(b) Preliminary Development Plan

- (1) The Existing Conditions Site Report.
- (2) Proposed building locations, separations, and setbacks;
- (3) Vehicular and pedestrian circulation plans.
- (4) A stormwater management plan; including preliminary arrangements for storm detention facilities.

- (5) All existing and proposed water facilities including the location and sizes of water mains, and the location of fire hydrants;
- (6) Location and size of sewage disposal system(s);
- (7) General concept plans for landscaping and buffering;
- (8) Architectural concept plans of proposed buildings and structures if required by the Planning Commission;
- (9) Typical sections for all access drives;
- (10) Proposed phases if the project is to be developed in stages; and;
- (11) A table containing calculations of building ground coverage and the total area of impervious cover.

(c) Yield Plan. The applicant shall prepare a Yield Plan showing a layout for a traditional subdivision on the subject parcel in full compliance with Village codes and taking into consideration all information depicted on the Existing Conditions Site Report required by Paragraph (a) herein.

(17) FINAL DEVELOPMENT PLAN REQUIREMENTS.

- (a) Final Development Plans shall be prepared and certified by persons professionally qualified to do such work. Final Development Plans shall be prepared at an appropriate scale, but not less than one inch equals one hundred feet (1" = 100'). Profiles must be submitted on standard plan profile sheets.
- (b) Final Development Plans shall include detailed design information for all of the items contained on preliminary Development Plans but shall also include detailed construction drawings for proposed improvements including such items as:
 - (1) Detailed improvement plans including all pipe sizes, types, grades, and invert elevations, and the location of manholes for sanitary and storm sewers, and the location and sizes of water mains, and the location of fire hydrants, and the location and description of all proposed wells, including the aquifer formation;
 - (2) A detailed landscaping and buffering plan including a listing of all plant material by type, size, and number;
 - (3) Provisions for the adequate control of erosion and sediment;
 - (4) The location, type, size and height of all fencing, screening, and retaining walls;
 - (5) The location, width, size and intended purpose of all easements; and

- (6) Detailed site grading and storm water management plans including storm detention calculations and pipe sizing analyses.

All proposed improvements must conform to the Improvement Standards of the Village's subdivision regulations unless a variance is granted to such regulations by the Planning Commission in accordance with the procedural requirements of such subdivision regulations.

(18) CONSTRUCTION INSPECTION.

During construction, the Village's representatives shall be afforded adequate opportunity to inspect the development to confirm proper installation of improvements and compliance with the provisions of this Zoning Code, the approved standards and conditions for the Conservation Development District, the applicable subdivision regulations, and such other codes as may be applicable. Such inspections shall be permitted on all improvements regardless of final ownership.

(19) FEES AND DEPOSITS.

- (a) All applications for Development Plan review and approval shall be accompanied by a non-refundable fee in an amount as set forth in the fee schedule as established and modified from time to time by Village Council.
- (b) All applications for Development Plan review and approval shall be accompanied by a cash deposit for professional consultant services in an amount as set forth in the fee schedule as established from time to time by Village Council. Any balance of unused funds shall be refunded to the applicant within sixty (60) days of the Village's final action on the application.
- (c) Prior to commencement of construction, the developer of a Conservation Development District shall deposit with the Village Building Department an amount based upon the estimated cost of construction of inspection services as determined by the Village's consultants, which funds shall be used by the Village to pay for project inspections during construction as provided in Paragraph (18) above.

4.03 DEVELOPMENT REGULATIONS - The development of two-family, multi-family, private cluster residential development, residential neighborhood and elderly assisted living facilities shall comply with the development regulations of this Code. (Amended by Ord. No. 1992-9, passed 02-24-92)

4.04 DWELLING UNIT REGULATIONS - In order to provide healthful living conditions and preserve the character of neighborhoods, dwellings shall be erected, altered or moved in whole or in part, only according to the following regulations:

- (a) Minimum Floor Area: The minimum floor area of a dwelling unit shall be the sum of the floor area above the basement level, including those rooms and closets having a minimum ceiling height of seven and one-half (7-1/2) feet and having the natural light and ventilation as required by all applicable law. Rooms above the first floor may be included which are directly connected by

permanent stairs and hall, including spaces under pitched roofs having a minimum knee wall height of four (4) feet in one-half of the room area and minimum ceiling height of 7-1/2 feet. The area for buildings shall be measured from the interior face of the enclosing walls at the respective floor line. For two-family and multi-family dwellings, where applicable, measurements shall be made to the centerline of the party walls. The following areas shall be excluded: garages and porches for all dwellings; and all common areas in two-family or multi-family dwellings.

4.05 OPEN SPACE - The following percentages of the total horizontal area within lot lines of a subdivision shall be devoted to open space and duly recorded as common land or devoted to public use if recommended by the Planning Commission and accepted for dedication by the council: 1) one-acre zoning--10%; 2) one and one-half acre zoning--6.6%; 3) two acre zoning--5%; 4) two and one-half acre zoning--4%. The location and configuration of such open space shall be subject to Commission approval. Any land devoted to open space and duly recorded as common land shall be conveyed to a homes' association and each owner of a lot within the subdivision shall be required by deed restrictions, approved by the Solicitor, to maintain the common land.

(a) **Common Land**: Where common land is proposed as open space restrictions and covenants providing for its development and continued maintenance shall be subject to Commission approval. Such open space shall be located at least 25 feet from any dwelling and include at least 20,000 square feet of usable area, and shall be developed according to plans approved by the Commission.

(b) **Public Land**: The Commission may require the dedication of open space as public land in lieu of or in addition to the devoting of land to open space as required in this section. (Ord. 2001-19).

(c) **Additional Parking**: Additional parking areas, not to exceed 10% of common land, may be set aside in any subdivision for additional parking for residents and their guests. Such parking areas shall comply with the regulations set forth in Chapter 8 of this Code.

4.06 ELDERLY ASSISTED LIVING FACILITIES - Elderly Assisted Living Facilities and regulation of the same are hereby established to achieve, among others, the following purposes:

(a) To provide for non-institutional housing opportunities for elderly citizens requiring assistance in meeting personal needs including any of the following: diet, recreation, housekeeping, socializing, spiritual, and personal needs, provided such needs do not require, on a regular basis, medical and nursing services to be provided at the facility.

(b) To make the aforementioned provisions in appropriate locations and designs for such purposes.

(c) To protect adjacent residential uses by controlling the use, spacing, height and architectural design of structures and the overall development and location of sites for development of facilities for elderly assisted living.

(d) To promote the most desirable land use and traffic patterns according to the laws, ordinances, rules and regulations applicable.

(e) In elderly assisted living districts, structures and land shall be used, and structures shall be erected or altered only according to the following regulations:

1. Main Uses: Main uses, conducted wholly within structures given on the chart appearing at 4.01 of this Chapter shall be permitted by right only on a lot only in the District in which such uses are specifically permitted.

2. Accessory Uses: Accessory uses given on the chart appearing at 4.01 of this Chapter shall be permitted only as subordinate uses to the permitted main use on the same lot. Accessory uses shall be regulated by said chart and other applicable provisions of this Code.

(f) The area and width of a lot shall not be less than given on the chart appearing at 4.02 of this Chapter. Any land dedicated to elderly assisted living facilities shall have a right of ingress and egress to the public street. The percent of total floor area to the total lot area shall not be more than given on said chart. The set-back, front yard, side yard and rear yard shall not be less than given on said chart.

(g) Development Regulations: The development of elderly assisted living facilities shall comply with development regulations of this Code. The private drive shall be designed and constructed to accommodate the expected number of residents, guests, employees and deliveries and the Commission may require the private drive to be built in accordance with the Improvement Standards of the Municipality.

(h) Performance Regulations: Elderly Assisted Living Facilities shall comply with performance regulations of this Code.

4.07 PARKING REGULATIONS - Required off street parking and loading facilities shall be provided according to the following schedule and in accordance with the regulations found in Chapter 8 of this Zoning Code. Such facilities shall be provided whenever a structure or use is erected, altered or moved in whole or in part; and shall continue unobstructed so long as the structure or use remains unless equal facilities are provided in another location, approved by the Commission. The use of off street parking and loading facilities for automotive service or storage of any materials is prohibited.

<u>Permitted or Conditional Use</u>	<u>Minimum Required Parking Spaces</u>	
One-family dwellings	*	
Two-family dwellings	2/DU (2)	--
Multi-family dwellings	2/DU (2)	--
Rented Rooms	2/DU (2)	--
Elementary Schools	1/rented rm.	--
Public Buildings	1/1,000 sq. ft. (1) (1)	
Churches	1/500 sq. ft. (1) (1)	

Nurseries	1/3 seats	--
Golf Courses	1/500 sq. ft.	--
Cemeteries	5 per hole, plus one per seat	
Gas and Oil Wells	(1)	--
Club Swimming Pools	1/employee	--
Elderly Assisted Living Facilities	1/200 sq. ft. of pool area	--
	(3)	1
Municipal Cemetery	N/A	N/A

* DU = Dwelling Unit

- (1) For assembly areas add one space per 3 seats, or one space for 6 sq. ft. of floor area.
- (2) Garage spaces required.
- (3) One space for every 3 residents, based on capacity, plus 1 for every employee for 2 largest successive employee shift.

Unlicensed automobiles or trucks shall not be permitted to be parked in any residential district. No truck or other motor vehicle shall be parked or stored in any residential district which has a load capacity in excess of 1500 pounds except that delivery trucks and vehicles may park in a residential district when they are delivering any item of personal property to a residence and shall park only so long as is necessary to either load or unload such personal property.

4.08 SIGN REGULATIONS - Signs shall be erected, altered, reconstructed or moved in whole or in part, according to the following regulations and those found in Chapter 9 of this Zoning Code. No self-illuminated signs shall be permitted in a residential district. Illumination of signs in residential districts may be permitted provided such illumination is supplied by an external source, does not unreasonably illuminate adjacent property and does not create a safety hazard. In no event shall blinking or flashing illumination of signs be permitted.

The following signs shall be permitted in residential districts:

1. Nameplate: One (1) nameplate not exceeding two (2) square feet in total area shall be permitted for each one or two-family dwelling unit. Such signs shall not be located less than 25 feet from any lot line of the premises. Nameplates shall not be permitted for multifamily dwellings.

2. Bulletin Board: One (1) bulletin board not exceeding 25 square feet in total area shall be permitted on any lot used for public or semi-public purposes. Such signs shall not be located less than 25 feet from any lot line of the premises.

3. Directional Signs: Signs necessary for the safe and efficient movement of traffic on the premises.

4. Temporary Signs: Signs for special events may be permitted by the Zoning Inspector not to exceed seven (7) days, provided the signs are not confused with traffic signs and do not interfere with the movement of vehicular and pedestrian traffic.

5. Real Estate Signs:

a. One (1) temporary sign denoting "For Sale" or "To Rent", not exceeding four (4) square feet in area shall be permitted for each dwelling or lot. Such signs shall not be located less than 25 feet from any lot line and shall be removed within 10 days after the sale or rental of the premises.

b. Temporary development signs which shall not exceed 40 square feet in total area and shall be located not less than 100 feet from any lot lines. Permits for such sign shall be for a period not exceeding six (6) months and may be renewed while construction is being pursued diligently. If no part of the development abuts an arterial or collector street, directional signs not exceeding two (2) square feet in area may be permitted in public tree lawns for specified periods.

c. One (1) permanent development sign indicating the name, owner or manager not exceeding 25 square feet in total area shall be permitted for each development.

6. Elderly Assisted Living District: In Elderly Assisted Living District, one permanent sign indicating the name, address and description of the facility not exceeding 35 square feet in total area shall be permitted for such facilities. Such sign shall be located no closer than 20 feet from the street right-of-way, 35 feet from any side yard, and shall not be located in any rear yard.

7. Municipal Cemetery: No signage regulations for such use.

CHAPTER 5
BUSINESS DISTRICTS

5.00 INTENT - Business districts and their regulations are herein established to achieve among others, the following purposes:

(a) To provide for the following district in appropriate locations and of sufficient size for the exchange of goods and services and other business activities to serve neighborhood needs for retail goods and services which do not attract large volumes of traffic.

(b) To protect adjacent residential uses by controlling the use, spacing, intensity, height and architectural design of structures and the overall development of business sites.

(c) To promote the most desirable land use and traffic patterns. (Ord. 2001-19).

(d) To create a Limited Office District (B-4) in areas presently zoned residential which are in between zoned and developed business districts and zoned and developed residential districts, to provide a buffer zone between the two districts and to allow for business uses giving the impression of residential use and eliminating the hazards, inconvenience, and possibility of property value detraction ordinarily attendant to mixtures of business and residential uses in semi-rural settings.

5.01 USE REGULATIONS - In business districts, structures and land shall be used, and structures shall be erected, altered or moved in whole or in part, only according to the following regulations:

<u>DISTRICT</u>	<u>MAIN PERMITTED USE</u>	<u>ACCESSORY USE</u>	<u>CONDITIONAL USE</u>
B-1	<ul style="list-style-type: none"> • Residential (R-1-A) • Offices • Retail • Personal Serv. • Municipal Cemetery 	Structures, Outdoor Sales, Parking, Loading Signs	Residential, Gas Stations, Restaurant, Commercial Amusements, Automotive Sales, Mortuaries, Wireless Telecommunications Facility (Ord. 1997-29)
		N/A	N/A
B-2	<ul style="list-style-type: none"> • Residential (R-1-A) • Offices • Personal Serv. • Municipal Cemetery 	Structures Parking Loading Signs	Wireless Telecommunications Facility (Ord. 1997-29) Bed and Breakfast (Ord. 2001-19)
		N/A	N/A

<u>DISTRICT</u>	<u>MAIN PERMITTED USE</u>	<u>ACCESSORY USE</u>	<u>CONDITIONAL USE</u>
B-3	<ul style="list-style-type: none"> • Residential (R-1-A) • Medical Services • Municipal Cemetery 	Structures Parking Loading Signs N/A	Wireless Telecommunications Facility (Ord. 1997-29) N/A
B-4	<ul style="list-style-type: none"> • Residential (R-1-A) • Limited Offices • Municipal Cemetery 	Structures Parking Loading Signs N/A	Wireless Telecommunications Facility (Ord. 1997-29) NA

5.02 AREA, YARD & HEIGHT REGULATIONS.

- (a) In business districts, structures and land shall be used, and structures shall be erected, altered or moved in whole or in part, only according to the following chart and regulations.

BUSINESS DISTRICTS

District	Permitted Use (8)	Minimum Lot Area (Acres) (13)	Minimum Lot Width (Ft.)	Maximum Lot Coverage	Minimum Front Yd. (7)	Yard Dimensions		(Ft.) Rear Yd.		Maximum Height (Ft.)	
						Side Yd. (1) (2)	(1) (2)	(1) (2)			
B-1	<u>Main:</u>										
	• Residential	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	
	• Offices)	1)	100)	35%)	100)	30) (4))	30)	15	35		
	• Retail)	")	")	")	")	") ")	")	"	15		
	• Personal Serv.	")	")	")	")	") ")	")	"	"		
	• Municipal Cemetery	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
	<u>Accessory:</u>										
	• Structures	-	-	(5)	(6))	30) 15)	30	15	15		
	• Outdoor Sales	-	-	-	50)	") ")	")	"	-		
	• Parking	-	-	-	25)	") ")	")	"	-		
	• Loading	-	-	-	(6))	") ")	")	"	-		
	• Signs	-	-	-	20)	30	(6)	(6)	20 (7)		
	• Fences				(12))	3 3	3	3	6/3 (12)		
	B-2	<u>Main:</u>									
• Residential		(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	
• Offices)		1)	100)	35%)	100)	30) (4))	30)	15	35		
• Personal Serv)		")	")	")	")	") ")	")	"	"		
• Municipal Cemetery		N/A	N/A	N/A	N/A	N/A	N/a	N/A	N/A	N/A	
<u>Accessory:</u>											
• Structures		-	-	(5)	(6))	30) 15)	30)	15	15		
• Parking		-	-	-	25)	") ")	")	"	-		
• Loading		-	-	-	(6))	") ")	")	"	-		
• Signs		-	-	-	20	30	(6)	(6)	7		
• Fences					(12)	3 3	3	3	6/3 (12)		
B-3		<u>Main:</u>									
		• Residential	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)

• Medical	5	250	35%	100	50	(10)	30	25	30
• Municipal Cemetery	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Accessory:
Same as B-2 District

(Ord. 1988-59, adopted October 24, 1988)

BUSINESS DISTRICTS (continued)

District	Permitted Use (8)	Minimum Lot Area (Acres) (13)	Minimum Lot Width (Ft.)	Maximum Lot Coverage	Minimum Front Yd. (7)	Yard Dimensions Side Yd.		(Ft.) Rear Yd.		Maximum Height (Ft.)
						(1)	(2)	(1)	(2)	
B-4	<u>Main:</u>									
	• Residential	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
	• Limited Offices	(1)	130	35%	100	30	30	50	50	30
	• Municipal Cemetery	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	<u>Accessory:</u>									
	• Structures	-	-	(5)	(6)	30	30	50	50	15
	• Parking	-	-	-	(6)	30	30	30	30	-
	• Loading	-	-	-	(6)	30	30	30	30	-
	• Signs	-	-	-	(11)	(11)	(11)	(11)	(11)	(11)
	• Fences	-	-	-	(12)	3	3	3	3	6/3 (12)

- (1) Abutting R Districts
- (2) Abutting B or I Districts
- (3) Dimensions determined by regulations of the R-1-A District
- (4) At least 15 feet or party wall
- (5) The total floor area of all accessory structures on a lot shall not exceed 500 square feet
- (6) Not permitted
- (7) Except as otherwise shown on Zoning Map
- (8) See definitions given in Chapter 2 of this Code
- (9) Unless otherwise given in Chapter 5 of this Code
- (10) At least 25 feet or party wall
- (11) See Section 5.06(b)
- (12) See Section 5.02(b)
- (13) Any land located in a groundwater sensitive zone shall comply with the minimum lot area requirement designated on the Groundwater Sensitive Zone Map if the minimum lot area designated on such map exceeds the minimum lot area set forth in this Section 5.02.

FENCES: Fences may be permitted along the side or rear lot lines (set back at least 3' from the actual boundary line), provided at least 25 per cent of the vertical surface is open to light and air. Such fences are permitted to a height not exceeding six (6) feet above the finished grade, except for fences along the side lot lines which run between the street and the front line of the lot's principal structure, which shall not exceed three (3) feet in height. However, split-rail fences along such front side lines are permitted to a maximum height of four (4) feet.

No fences are permitted along front lot lines with the exception of split-rail fences which shall not exceed four (4) feet in height.

All fences shall be of uniform design and well maintained. Fences over six (6) feet in height may be permitted with approval of planning commission upon a showing of special circumstances indicating such proposed height is in the interest of public health, safety & welfare and necessary for the screening of neighboring properties.

5.03 DEVELOPMENT REGULATIONS - The development of business uses shall comply with development regulations of this Code.

5.04 PERFORMANCE REGULATIONS - Business uses shall comply with performance regulations of this Code.

5.05 PARKING REGULATIONS - Required off-street parking and loading facilities shall be provided according to regulations found herein and in Chapter 8. Such facilities shall be provided whenever a structure or use is erected, altered or moved in whole or in part, and shall continue unobstructed so long as the structure or use remains unless equal facilities are provided in another location, approved by the Commission. The use of off-street parking and loading facilities for automotive service or storage of any material is prohibited.

PERMITTED OR CONDITIONAL USE	MINIMUM REQUIRED SPACES	
	PARKING	LOADING
Residential	Same as R Districts	-
Offices	1 per 300 sq. ft.	(3)
Limited Offices (B-4)	10 (In the rear of the structure)	-
Retail & Personal Service: (1)		
Under 2000 sq. ft.	7 per 1000 sq. ft. (3)	1
2000 – 3000 sq. ft.	6 per 1000 sq. ft. (3)	1
Over 3000 sq. ft.	5 per 1000 sq. ft. (3)	2
Restaurants	1 per 2 seats	1
Open Commercial Amusement	1 per 500 sq. ft. of lot area	-
Mortuary	40 plus 1 per 200 sq. ft.	-
Municipal Cemetery	N/A	N/A

- (1) Includes all business uses not otherwise specified.
- (2) Of floor area as defined in Chapter 2.

5.06 SIGN REGULATIONS - Signs shall be erected, altered, reconstructed or moved in whole or in part, [No sign regulations apply to the “Municipal Cemetery”] according to the following regulations and those found in Chapter 9 of this Zoning Code.

(a) (B-1) (B-2) (B-3), Business Districts:

The following signs shall be permitted in B-1, B-2, and B-3, Business Districts:

- 1. Contents: All signs defined in Chapter 2, except general advertising signs, shall be permitted according to the following provisions.
- 2. Design & Size: The total sign area shall not exceed the following maximum areas:

<u>Building Frontage</u> (Feet)	<u>Maximum Sign Area</u> (Sq. Ft.)
Under 15	25
15-19	30
20-24	35
25-29	40
30-34	45
35-39	50
40-49	55
50-59	60
60-69	65
70 and over	75

In no event shall any single sign exceed 36 square feet, unless approved by Planning Commission upon a showing by the applicant such limitation unreasonably restricts the applicant's ability to communicate the desired information, and that the proposed sign does not constitute a safety hazard.

Moving signs shall not be permitted.

Sign areas shall be permitted in addition to the areas specified above as follows:

- a. Nameplates: Professional offices or service organizations above the ground floor of a structure may have additional signs provided the total area of the signs does not exceed two (2) percent of the floor area occupied by the establishment or 15 square feet, whichever is the smaller. Window signs shall not exceed two (2) square feet in area.

b. Conditional Uses: The design and size of signs associated with conditional uses shall be determined separately for each establishment and regulated by a conditional use permit.

c. Development Signs: Temporary signs announcing a proposed structure or advertising the sale, rental or lease of a structure or use shall be located on the lot occupied by the structure or use advertised and shall not exceed 20 square feet in total area for each street frontage.

d. Directional Signs: Permanent signs indicating traffic routes or similar features, shall be permitted in addition to the above limitations, provided such signs do not exceed four (4) square feet in total area.

e. Temporary Signs: A business shall be permitted for a maximum of thirty (30) days, one (1) temporary sign on the outside of buildings and in the yards where such signs are permitted in order to announce a sale, new product, or other special business event or promotion, but no more than three (3) times per calendar year, with a minimum of thirty (30) days of separation between each temporary sign. Such temporary sign shall be in addition to the business's permanent business signs, provided such temporary sign does not exceed fourteen (14) square feet in area; two (2) sides are permitted. The purpose of this provision is to discourage the practice of temporary signage being used on a quasi-permanent basis and to limit the privilege of a temporary sign to its intended relatively brief period of time

3. Location: Unless otherwise provided, signs shall be located on a lot according to the chart set out in Section 5.02 above and the following regulations:

a. General Location: Signs shall not project over or obstruct required windows or door of a structure, or be attached to or obstruct a fire escape or interfere with other safety provisions. In no case shall signs be located in a manner which might obstruct street sight lines or traffic.

b. Wall Signs: No projection shall be more than 18 inches in front of the wall or project beyond any building corner. Signs shall not extend above the height of a structure or 15 feet above the finished grade, whichever is less.

c. Projecting Signs: No more than one (1) such sign for each establishment or store unit shall be permitted. Such signs shall be attached to the wall and shall project at an angle of 90 degrees therefrom. No sign shall project over a public right-of-way, nor shall it extend above the height of the structure to which it is attached or 15 feet, whichever is less. No face of a projecting sign shall be less than 25 feet from a side lot line or party wall of another store unit.

d. Pole Signs: Pole signs shall not be permitted.

e. Ground Signs:

(1) Location. No ground sign shall be nearer than 25 feet from the curb line or improved margin of any street. No ground sign shall be

permitted on or over any public sidewalk, street or other public property.

- (2) Size Limitation. The square footage of ground signs that shall be permitted shall be as follows:

<u>Distance of Ground Sign From Curb Line or Improved Margin of Street (feet)</u>	<u>Maximum Square Footage of Sign Allowed</u>
25 - 40	24
41 - 50	30
over 50	36

For purposes of this section, the square footage of any sign shall be computed by the length of the sign at its longest point multiplied by the width of the sign at its widest point.

Signs with open spaces within such sign shall be computed as if the open space was a part of the sign and the square the open space shall be included as part of the total square footage herein permitted. No ground sign shall be erected, where the bottom of which exceeds 3 feet in elevation above ground or grade level.

- (3) Number of Signs Permitted. No property shall have more than one ground sign on the premises.
- (4) Lighting. Lighting shall be permitted on ground signs, provided that illumination is concentrated upon the area of the sign so as to prevent glare upon the street or its use and property.

4. Height of Signs: The height of the lowest member of a projecting sign shall not be less than eight (8) feet above the finished grade. Unless otherwise provided in this Code, the maximum height shall not exceed the heights given on the Chart at Section 5.02.

5. Illumination: The illumination of signs shall comply with the development and performance regulations of this Code. Signs which might be identified as traffic signals or other safety devices shall not be permitted. In no case shall blinking, flashing, neon or neon-type, moving or other such signs be permitted. (Ord. 2001-19).

6. Streamers: Streamers shall not be permitted.

(b) Limited Office Districts: (B-4)--the following signs shall be permitted in Limited Office Districts (B-4):

1. One wall sign not greater than 9 square feet in total area shall be permitted for all uses on the lot; and such signs shall be subject to the following regulations:

(a) The sign shall be located on the rear of the structure and shall be subject to approval of the Commission;

(b) The sign shall not obstruct required windows or doors or be attached to or obstruct any fire exit or interfere with any safety features of the structure;

(c) Wall signs shall not project more than 8 inches in front of the wall or project beyond any building corner or extend above the height of the structure or 15 feet above the finished grade, whichever is less;

(d) Illumination of such signs shall comply with the development and performance regulations of this Code and in no case shall blinking, flashing, moving or other such sign be permitted.

(e) Streamers shall not be permitted.

CHAPTER 6
INDUSTRIAL DISTRICTS

6.00 INTENT - Industrial districts and their regulations are herein established to achieve among others, the following purposes:

- (a) To provide for light industrial districts in appropriate locations and of sufficient size for research, office and limited production and distribution activities.
- (b) To protect adjacent residential uses by controlling the use, spacing, intensity of activity, height and architectural design of structures and the overall development of industrial sites.
- (c) To promote the most desirable land use and traffic patterns. (Ord. 2001-19).

6.01 USE REGULATIONS - In Industrial Districts, structures and land shall be used, and structures shall be erected, altered or moved in whole or in part, only according to the following regulations:

<u>DISTRICT</u>	<u>MAIN USE</u>	<u>ACCESSORY USES</u>	<u>CONDITIONAL USES</u>
I-1	<ul style="list-style-type: none"> • Offices • Research Laboratories 	Structures Parking Loading Signs Employee Lunch Rooms	Metal and Non-Metal Production, Distribution, Wireless Telecommunications Facility (Ord. 1997-29)
	<ul style="list-style-type: none"> • Municipal Cemetery 	N/A	N/A

6.02 AREA, YARD & HEIGHT REGULATIONS

(a) In Industrial Districts, structures and land shall be used, and structures shall be erected, altered or moved in whole or in part, only according to the following regulations:

INDUSTRIAL DISTRICT REGULATIONS

District	Permitted Use (6)	Minimum Lot Area (Acres) (10)	Minimum Lot Width (Ft.)	Maximum Lot Coverage	Minimum Yard Dimensions (Ft.)				Maximum Height (Ft.)	
					Front Yd. (5)	Side Yd. (1) (2)	Rear Yd. (1) (2)			
I-1	<u>Main:</u>									
	• Offices	2	200	35%	100	50	30	50	30	30
	• Research Laboratories	2		35%	100	50	30	50	30	30
	• Municipal Cemetery	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	<u>Accessory:</u>									
	• Structures	-	-		(4)	30	15	30	15	30
	• Parking	-	-	(3)	25	30	15	30	15	-
	• Loading	-	-		(4)	30	15	30	15	-(8)
	• Signs	-	-		20	50	15	(4)	(4)	(7)
	• Employee Lunch Rms. (7)	-	-		-	-	-	-	-	-
• Fences				(9)	(3)	(3)	(3)	(3)	6/3 (9)	

- (1) Abutting R Districts
- (2) Abutting B or I Districts
- (3) The total floor area of all accessory structures on the lot shall not exceed 1000 square feet
- (4) Not permitted
- (5) Except as otherwise shown on Zoning Map
- (6) See definitions in Chapter 2 of this Code
- (7) Within main structure only
- (8) Unless otherwise given in Chapter 6 of this Code
- (9) See Section 6.02(b)
- (10) Any land located in a groundwater sensitive zone shall comply with the minimum lot area requirement designated on the Groundwater Sensitive Zone Map if the minimum lot area designated on such map exceeds the minimum lot area set forth in this Section 6.02.

(Ord. 1989-1, adopted January 9, 1989)

FENCES: Fences may be permitted along the side or rear lot lines (set back at least 3' from the actual boundary line), provided at least 25 per cent of the vertical surface is open to light and air. Such fences are permitted to a height not exceeding six (6) feet above the finished grade, except for fences along the side lot lines which run between the street and the front line of the lot's principal structure, which shall not exceed three (3) feet in height. However, split-rail fences along such front side lines are permitted to a maximum height of four (4) feet.

No fences are permitted along front lot lines with the exception of split rail fences which shall not exceed four (4) feet in height.

All fences shall be of uniform design and well maintained.

6.03 DEVELOPMENT REGULATIONS - The development of industrial uses shall comply with development regulations of this Code.

6.04 PERFORMANCE REGULATIONS - Industrial uses shall comply with performance regulations of this Code.

6.05 PARKING REGULATIONS - Required off street parking and loading facilities shall be provided according to the following regulations and those found in Chapter 8. Such facilities shall be provided whenever a structure or use is erected, altered or removed in whole or in part and shall continue unobstructed so long as the structure or use remains unless equal facilities are provided in another location, approved by the Commission. The use of off-street parking and loading facilities for automotive service or storage of any materials is prohibited.

PERMITTED OR CONDITIONAL USE	MINIMUM REQUIRED SPACES	
	PARKING	LOADING
Offices	1 per 300 sq. ft. of floor area	-
Research	1 per employee	(1)
Production & Distribution	1 per employee	(1)
Municipal Cemetery	N/A	N/A

6.06 SIGN REGULATIONS - Signs shall be erected, altered, reconstructed or moved in whole or in part, [No sign regulations apply to the “Municipal Cemetery”] according to the following regulations and those found in Chapter 9.

1. **Contents:** All signs defined in Chapter 2, except general advertising signs, shall be permitted according to the following provisions.
2. **Design & Sign:** The total sign area shall not exceed the following maximum areas:

<u>Building Frontage</u> (Feet)	<u>Maximum Sign Area</u> (Sq. Ft.)
Under 15	25
15-19	30
20-24	35
25-29	40
30-34	45
35-39	50
40-49	55
50-59	60
60-69	65
70 and over	75

In no event shall any single sign exceed 36 square feet, unless approved by Planning Commission upon a showing by the applicant such limitation unreasonably restricts the applicant's ability to communicate the desired information, and that the proposed sign does not constitute a safety hazard.

Moving signs shall not be permitted.

Sign areas shall be permitted in addition to the areas specified above as follows:

a. Nameplates: Professional offices or service organizations above the ground floor of a structure may have additional signs provided the total area of the signs does not exceed two (2) percent of the floor area occupied by the establishment or 15 square feet, whichever is the smaller. Window signs shall not exceed two (2) square feet in area.

b. Conditional Uses: The design and size of signs associated with conditional uses shall be determined separately for each establishment and regulated by a conditional use permit.

c. Development Signs: Temporary signs announcing a proposed structure or advertising the sale, rental or lease of a structure or use shall be located on the lot occupied by the structure or use advertised and shall not exceed 20 square feet in total area for each street frontage.

d. Directional Signs: Permanent signs indicating traffic routes or similar features, shall be permitted in addition to the above limitations, provided such signs do not exceed four (4) square feet in total area.

e. Temporary Signs: A business shall be permitted for a maximum of thirty (30) days, one (1) temporary sign on the outside of buildings and in the yards where such signs are permitted in order to announce a sale, new product, or other special business event or other special business event or promotion, but no more than three (3) times per calendar year, with a minimum of thirty (30) days of separation between each temporary sign. Such temporary sign shall be in addition to the business' permanent business signs, provided such temporary sign does not exceed fourteen (14) square feet in area; two (2) sides are permitted.

The purpose of this provision is to discourage the practice of temporary signage being used on a quasi-permanent basis and to limit the privilege of a temporary sign to its intended relatively brief period of time.

3. Location: Unless otherwise provided, signs shall be located on a lot according to the Chart set out at Section 6.02 above and the following regulations:

a. General Locations: Signs shall not project over or obstruct required windows or doors of a structure, or be attached to or obstruct a fire escape or interfere with other safety provisions. In no case shall signs be located in a manner which might obstruct street sight lines or traffic.

b. Wall Signs: No projection shall be more than 18 inches in front of the wall or project beyond any building corner. Signs shall not extend above the height of a structure or 15 feet above the finished grade, whichever is less.

c. Projecting Signs: No more than one (1) such sign for each establishment shall be permitted. Such signs shall be attached to the wall and shall project at an angle of 90 degrees therefrom. No sign shall project over a public right-of-way, nor shall it extend above the height of the structure to which it is attached or 15 feet, whichever is less. No face of a projecting sign shall be less than 25 feet from a side lot line or party wall of establishment.

d. Pole Signs: Pole signs shall not be permitted.

e. Ground Signs:

(1) Location. No ground sign shall be nearer than 25 feet from the curb line or improved margin of any street. No ground sign shall be permitted on or over any public sidewalk, street or other public property.

(2) Size Limitation. The square footage of ground signs that shall be permitted shall be as follows:

<u>Distance of Ground Sign From Curb Line or Improved Margin of Street (feet)</u>	<u>Maximum Square Footage of Sign Allowed</u>
25 - 40	24
41 - 50	30
over 50	36

For purposes of this section, the square footage of any sign shall be computed by the length of the sign at its longest point multiplied by the width of the sign at its widest point.

Signs with open spaces within such sign shall be computed as if the open space was a part of the sign and the square footage of the open space shall be included as part of the total square footage herein permitted. No ground sign shall be

erected, where the bottom of which exceeds 3 feet in elevation above ground or grade level.

(3) Number of Signs Permitted. No property shall have more than one ground sign on the premises.

(4) Lighting. Lighting shall be permitted on ground signs, provided that illumination is concentrated upon the area of the sign so as to prevent glare upon the street or its use and property.

4. Height of Signs: The height of the lowest number of a projecting or pole sign which is not integral with a wall surface, shall not be less than eight (8) feet above the finished grade. Unless otherwise provided in this Code, the maximum height shall not exceed the heights given on the chart at Section 6.02.

5. Illumination: The illumination of signs shall comply with the development and performance regulations of this Code. Signs which might be identified as traffic signals or other safety devices shall not be permitted. In no case shall blinking, flashing, moving, neon, or neon-type, or other such signs be permitted. (Ord. 2001-19).

6. Streamers: Streamers shall not be permitted.

CHAPTER 7

CONDITIONAL USE REGULATIONS

7.00 INTENT - Conditional use permits shall be required for certain types of uses so classified because of their uncommon or unique characteristics, infrequency of occurrence, large area requirements or other reasons. Such uses shall not be permitted by right. The conditional uses enumerated in the districts of this Code may be permitted under specified conditions, but only if such uses conform to the following standards and regulations. No conditional use permit shall be assignable or transferable. Any change in ownership or operation of any conditional use shall require the new owner or operator to file an application for a new conditional use permit in accordance with the regulations set forth in the Zoning Code. It shall be the duty of the existing permit holder to advise the Commission of any change in ownership or operation and it shall be a violation of the Zoning Code if the permit holder does not advise the Commission of such change.

7.01 GENERAL STANDARDS - Conditional uses shall not be approved unless the Commission finds that such uses comply with the following general standards:

- (a) The use shall be properly located in relation to adopted land use and street plans.
- (b) The use shall generate minimum traffic through residential neighborhoods.
- (c) The use is necessary to serve surrounding residential areas, which cannot be served satisfactorily if the same use is located in a nearby, less restrictive district where it may be permitted by right.
- (d) The location, design and operation of the use shall not discourage or interfere with appropriate neighborhood development or impair the value of the surrounding area.
- (e) The use shall comply with all applicable provisions of this Code including parking and loading, sign, development and performance regulations, and the following supplementary regulations.

7.02 REGULATIONS - In all zoning districts, the permissible conditional uses shall comply with the standards set out in the following chart and with the Supplementary Regulations beginning at Paragraph (a) below:

- (a) All points of entrance or exit shall be located at least two hundred (200) feet from the intersection of two arterials, or at least one hundred feet (100) from the intersection of an arterial and collector or local street.
- (b) Elementary schools shall be located on a collector street.

CONDITIONAL USE REGULATIONS

District	Conditional Use (4)	Minimum Lot Area (Acres)(8)	Minimum Lot Width (Ft.)	Supplementary Regulations (See Sec. 702)	Maximum Lot Coverage	Minimum Front Yard (2)	Minimum Side Yard (Ft.)	Minimum Rear Yard	Maximum Height (Ft.)
R-1-A	Schools	10	200	a,b,e,f,g,h	35%	100	100	100	30
R-1-B	Parks	2	200	a,g	-	100	20	75	15
R-1-C	Public Buildings	1	100	f,g,h	-	100	50	50	30
R-1-D	Churches & Nurseries	5	200	a,e,g,h,q	35%	100	50	50	30(5)
	Golf Courses	40	200	a,f,g,q	-	200	200	200	15
R-2	Cemeteries	40	200	a,f,g,m	-	200	200	200	15
	Gas & Oil Wells	80	000	u	-	300	500	500	-
	Lakes	-	-	t,q	-	-	-	-	-
	Club Pools	2	200	d,e,f,g,j,c,p,q,r	-	100	50	50	-
	Wireless Telecommunications Facility	1	100	x	-	100	50	50	200
RN-1	Lakes	-	-	t,q	-	100	50	50	-
	Club Pools	2	200	d,e,f,g,k,o,p,q,r	-	100	50	50	-
	Wireless Telecommunications Facility	1	100	x	-	100	50	50	200
B-1	Residential	(1)	(1)	(1)	-	(1)	(1)	(1)	(1)
	Gas Stations	1	100	c,e,g,j,s,)	35%	100)	50)	50)	15
	Restaurant	1	100	e,g,j,k,p)	35%	100)	(3))	(3))	15
	Commercial Amusements	1	200	e,g,j,k,p)	35%	100)	50)	50)	15
	Automotive Sales	2	200	a,c,e,g,j,k,l)	35%	100)	50)	50)	15
	Mortuaries	1	100	c,d,g,j)	35%	100)	50)	50)	30
	Wireless Telecommunications Facility	1	100	x	-	100	50	50	200
B-2	Bed and Breakfast	1	100	g,j	35%	100	50	50	30
I-1	Metal & Non-Metal Production-Distribution	3	200)	a,e,g,i,j,l,n	30%	100	50(3)	50(3)	30
	Wireless Telecommunications Facility	1	100	-	100	50	50	50	200

- (1) Same as nearest adjacent R District
- (2) Except as otherwise shown on Zoning Map
- (3) Dimension shall be doubled when yard abuts R District
- (4) See definitions given in Chapter 2 of this Code
- (5) Spires may be permitted by the Commission to a height exceeding 30 feet
- (6) Gas & Oil Wells in Recharge Districts shall be 2,000 feet from any water well or existing structures and 2,000 feet from any platted undeveloped land or land undergoing the process of subdivision or other residential development or other development where structures or uses will depend on groundwater for its potable water supply. (See Section 7.02(u)(12).
- (7) Lot area, width, and yard regulations may be measured by boundary lines of the drilling unit.
- (8) Any land located in a groundwater sensitive zone shall comply with the minimum lot area requirement designated on the Groundwater Sensitive Zone Map if the minimum lot area designated on such map exceeds the minimum lot area set forth in this Section 7.02. (Ord. 1989-1, adopted January 9, 1989)

(c) Such uses shall be located on arterials or at intersections of arterials and collector streets.

(d) Such uses shall be located adjacent to non-residential uses such as churches, parks, business or industrial uses.

(e) Such uses shall not require uneconomical extensions of utility services at the expense of the community.

(f) Site locations shall offer natural or man-made barriers that would lessen the effect of intrusion into the surrounding area, especially residential areas.

(g) Such uses shall be properly landscaped and screened to be harmonious with surrounding uses especially residential areas.

(h) Such structures shall be located adjacent to parks and other non-residential uses such as schools and shopping facilities where joint use could be made of parking facilities.

(i) Truck routes shall be established for movement in and out of the development to minimize the wear on public streets and prevent hazards and damage to property.

(j) All permitted installations shall be maintained in a neat, orderly and safe condition so as to prevent injury to property, or the community generally. A bond may be required to insure that this provision is met.

(k) Such uses may be permitted under the following conditions:

1. Such facilities shall be located at the extremity of business districts to minimize interference with the pedestrian movement within the district.
2. No more than two (2) access drives shall be permitted.
3. If the property fronts on two or more streets, the access drives shall be located as far from the street intersections as is practical.
4. A minimum six (6) inch high pedestrian safety curb shall be installed along street lines, except at driveway approaches, where parking and service areas adjoin right-of-way line.

(l) Truck parking areas, maneuvering lanes and access drive to public streets shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on or adjacent to the site. The site shall not be used for the storage of trucks.

(m) The area proposed for a cemetery shall be used for cemetery purposes only, and shall meet the following requirements:

1. Only memorial park cemeteries having grave markers flush with the surface of the ground shall be permitted.

2. Except for office uses incidental to cemetery operations, no business or commercial use of any kind shall be permitted on the cemetery site.
3. A building of brick or stone shall be provided if storage of maintenance equipment or materials is necessary.
4. Pavement width of driveways shall be at least 20 feet and improved according to parking and loading regulations of this Code.
5. Pavement shall be installed as development progresses and as indicated on plans approved by the Commission.
6. Area drainage and sanitary facilities shall be subject to approval by the Engineer prior to the issuance of a conditional use permit.
7. Only directional signs shall be permitted.
8. Adequate screening with shrubs, trees or compact hedges shall be provided parallel to property lines. Such screening shall not be less than two (2) feet in height and shall be maintained in good condition.
9. Provisions shall be made for landscaping throughout the cemetery.
10. The location of cemetery buildings and all other structures shall conform to front, side and rear yard regulations of the district in which it is located.
11. No grave sites shall be located within one hundred (100) feet of a street.
12. A grave site shall not be located within two hundred (200) feet of an existing residence unless the owner of such residence gives his written consent.
13. Guarantees shall be made that the cemetery will be developed as proposed on plans approved by the Commission and the Engineer. Guarantees shall be in a form approved by the Solicitor and may be one of the following:
 - a. A performance bond in the amount of \$25,000 for cemeteries of 40 acres. An additional \$5,000 shall be required for each 10 acres over 40 acres or for each 10 acres added at a later date. The amount of the bond shall be reduced annually, by an amount that will leave the balance of the bond proportional to the portion of the cemetery not developed to the specifications of plans approved by the Commission and the Engineer.
 - b. Other methods acceptable to Council.
14. A trust fund of an amount determined by Council shall be established by the cemetery developer for the perpetual maintenance of the cemetery grounds. Said trust fund shall be established before any burial spaces are sold or used

and shall be held and invested by a financial institution mutually agreed upon by the developer and Council. A percentage of the money from the sale of each burial space shall be put into the trust fund. The percentage shall be an amount set by the Council. Interest yielded by the fund shall be applied toward the maintenance of the cemetery grounds.

(n) In the interests of the community and other uses in I Districts, the Commission may, in regard to an industrial operation whose effects on adjacent premises are not readily known, seek expert advice on conditions that should be imposed on the operation to reasonably modify any injurious or offensive effects likely to result from the operation. The cost of securing such advice shall be borne by the applicant.

(o) Only uses which are customarily accessory or incidental to the main recreational use shall be permitted, retail uses such as refreshment and concession stands shall not be permitted.

(p) A conditional use permit shall be issued for a three (3) year period only. After this period has elapsed, a new permit shall be required and may be issued provided that the Commission and Zoning Inspector determine that the use has been and is being operated according to this Code and any previous conditions. If necessary, the Commission may make additional requirements for the continued operation of the use as a prerequisite for reissuance of the permit.

(q) All activities, programs and other events shall be adequately and properly supervised to prevent any hazard and to assure against any disturbances or nuisance to surrounding property, residents or the community in general.

(r) Club swimming pools shall comply with the following conditions:

1. The pool shall be used solely by the occupants of the lot or development area on which it is located and their guests.
2. The pool, including pump, filter and accessories thereto shall not be located in a front yard unless otherwise given on the Chart at Section 7.02 herein.
3. The pool, shall be so fenced as to prevent uncontrolled access by children from the street or from adjacent properties.
4. Adequate provision for drainage shall be subject to approval by the Engineer.
5. Any lighting used to illuminate the pool area shall be so arranged as to deflect light away from adjoining property.

(s) Bed and breakfast facilities shall comply with the following conditions:

- (1) All new construction and exterior alterations associated with the bed and breakfast, including non-structural improvements shall be reviewed by and require the approval of the Planning Commission.

- (2) Certificates from fire and health officials shall be required for each conditional use permit requesting approval for a bed and breakfast.
 - (3) Each paying lodger may stay at a bed and breakfast for not more than 7 consecutive nights at any single visit.
 - (4) One off-street parking space shall be provided for each guest and one off-street parking space for the dwelling unit. Such off-street parking spaces may be provided in an existing driveway.
 - (5) One on-premise sign shall be permitted for each bed and breakfast not to exceed 8 square feet in area. The sign shall not be internally illuminated. (Ord. 2001-19).
- (t) Gasoline stations shall comply with the following conditions:
1. The application shall include a market analysis of projected sales and traffic volumes and supporting data which show that the proposed gasoline station will comply with the development regulations of this Code and the following conditions:
 - a. A landscaped front yard shall be provided in front of parking areas, circulation drives and permitted outdoor uses. Front yards shall have a depth of at least thirty-five (35) feet from the street right-of-way line. Such yards shall be landscaped and maintained in satisfactory condition and except for permitted signs and entrance and exit drives, shall not be used for any other purpose.
 - b. Only one (1) building with a minimum of 1000 square feet of useable floor area shall be permitted on the lot.
 - c. If lubrication, washing or other incidental services for automobiles are proposed, such activities and the supply of all materials associated therewith shall be completely within an enclosed structure.
 - d. All gasoline storage tanks shall be completely underground. Gasoline pumps may be erected in front of the established building line, but not less than 50 feet from street lines.
 - e. Light poles and appurtenances may be placed in front of the building line. Enclosed cabinets or racks for the display of motor oil and windshield wiper blades and fluids may be placed behind the pump island setback line. Tires may be displayed outside the structure, but only in enclosed cabinets or racks, each with dimensions not exceeding twelve (12) feet in length, five (5) feet in width, and eight (8) feet in height, located behind the building line. No over-night display of items such as motor oil or tires outside a building shall be permitted except in permanently installed cabinets or racks.

- f. All driveways, platforms and curbs shall be designed according to the latest edition of the "Regulations Governing Ingress and Egress at Gasoline Service Stations fronting on all highways under State Jurisdiction in Ohio" adopted by the Ohio Department of Highways.
 - g. If rental trailers are proposed to be stored on the premises, a minimum lot area of 40,000 square feet shall be devoted exclusively to gasoline station use, and there shall be provided behind the building line an additional area for the storage of rental trailers on such premises at a ratio of five hundred (500) square feet per trailer. No vehicles shall be parked in front of the pump island setback line, except vehicles actually being serviced at such pump island.
2. If the gasoline station is abandoned it shall be presumed to be a nuisance affecting or endangering surrounding property values, and being detrimental to the public health, safety, convenience, comfort, and general welfare of the community and shall be abated. Abandoned is defined as failure to operate said gasoline station for at least three (3) consecutive months. Whenever the Zoning Inspector finds any gasoline station to be abandoned within the meaning of this section, he shall give notice in the same manner as service of summons in civil cases, or by certified mail addressed to the owner of record of the premises at his last known address or to the address to which tax bills are sent, or by a combination of the foregoing methods, to abate such abandoned condition within sixty (60) days either by placing the gasoline station in operation in accordance with this Code, adapting and using the building for another permitted business use, or by razing the gasoline station structure, removing the pumps and signs and abandoning all underground storage tanks. Upon failure, neglect or refusal of any owner to comply with the notice to abate such abandonment, the Zoning Inspector shall take such action as may be necessary to abate said nuisance.

(u) Such use shall comply with all planning and improvement standards of the Subdivision Regulations.

(v) Oil and gas wells shall be subject to and comply with the following definitions, minimum requirements procedures and regulations in order to obtain a conditional use permit for the drilling and production of an oil and gas well. **[NOTE: THE STATE OF OHIO HAS PRE-EMPTED LOCAL REGULATIONS OF OIL AND GAS WELLS. THE FOLLOWING REGULATIONS MAY THEREFORE BE UNENFORCEABLE IN PART OR IN WHOLE. THE READER IS ADVISED TO CONSULT LEGAL COUNSEL FOR FURTHER ADVICE.]**

- 1. Oil and gas means oil or gas or both.
- 2. Producer means the owner of a well capable of or producing oil or gas or both or a person intending to produce an oil and gas well. Production shall include transmission of oil and gas within pipelines when used in the Zoning Code.

3. Owner means the person who has the right to drill on a tract or drilling unit and to drill into and produce from a pool and to appropriate the oil or gas that is produced therefrom either for themselves or for others.
4. Contractor means any third party engaged by an owner or producer to conduct drilling, producing and other operations.
5. Division means Division of Oil and Gas, Department of Natural Resources for the State of Ohio.
6. Applicant means record owner of the real property, and owner if different than record owner and producer, it being the intent that the record owner, owner and producer shall comply with all laws and regulations and shall be treated as jointly and severally responsible for all acts performed in drilling, production and abandonment of oil and gas wells.
7. All well drilling, production and transmission operations and facilities for oil and gas shall comply and conform with all requirements of the Zoning Code, Ohio Revised Code Chapter 1509, the rules of the Division, and all other Ohio Revised Code and administrative regulations, or requirements of the Ohio and Federal Environmental Protection Agencies and National Pollution Discharge Elimination System Regulations and permit provisions, if applicable, and statutes and regulations promulgated thereunder, all anti-degradation statutes and regulations for the State of Ohio and all other applicable Federal laws and regulations. In case of any conflict between any Local, State or Federal laws, regulations or standards, the greater restriction or a more stringent provision shall apply and control. No person, firm, corporation or any other entity shall violate any provision of any law, regulation, or standard applicable to gas and oil well drilling, production and/or transmission.
8. No gas and oil well shall be drilled unless the owner, producer, or contractor complies with all minimum requirements set forth in the Chart at Section 7.02 herein or more stringent restrictions as may be set forth by the Commission due to existing or proposed development of surrounding properties reasonably affected by the drilling production or transmission of oil and gas wells or due to the characteristics of the land upon which the well is to be drilled. In the event the Planning Commission shall impose more stringent restrictions than as set forth in the Chart at Section 7.02, the Planning Commission shall give notice to the applicant who shall have the right to request, within three days after receiving actual notice from the Commission, a public hearing on the decision to increase minimum requirements under Schedule 7 which public hearing shall be held within twenty-one days after the applicant notifies the Commission of its request for a public hearing. The Commission may, but need not advertise the public hearing or send notice to those persons otherwise entitled to notice of a public hearing on an application for a gas and oil well permit. Any person adversely affected by a decision of the Planning Commission to impose more stringent restrictions shall have a right of appeal

to the Zoning Board of Appeals within twenty (20) days after such adverse decision of the Commission.

9. The minimum lot area for each gas and oil well in a discharge district as hereinafter set forth, shall be eighty acres which shall be deemed to be a drilling unit. The minimum lot area for each gas and oil well in a recharge district as hereinafter set forth, shall be eighty acres which shall be deemed to be a drilling unit. No more than one oil and gas well shall be permitted to be drilled in any drilling unit. To comprise a drilling unit, no more than two separate contiguous lots of records may be joined for the purpose of creating a drilling unit and meeting minimum lot area requirements. The applicant shall submit a legal description of the drilling unit and note the boundary lines of the drilling unit on information to be submitted under Section 14(G)(3).
10. There shall be no tanks, separators, sumps, pit areas, wells, or other apparatus or equipment erected for or maintained for the drilling, production, transmission, or storage of gas, oil, waste, natural or artificial brines, oil field waters, sewage or any liquid used in or resulting from any drilling or production of an oil or gas well within three hundred feet of any public right-of-way, nor within five hundred feet of any lot line. Such equipment may be within five hundred feet of a side yard line which is the common side yard line of two contiguous parcels which form a drilling unit.
11. For each gas and oil well to be drilled, a conditional use permit shall be obtained and the applicant shall comply with each and every regulation of the Zoning Code prior to issuance of the permit, regardless of the number of permits previously issued within a drilling unit. If the Planning Commission finds that any applicant for a permit for a gas and oil well is in violation of any provision of this Zoning Ordinance or any condition imposed upon any previously issued conditional use permit for a gas and oil well, the Planning Commission shall be prohibited from issuing any new permits for a gas and oil well until the applicant provides satisfactory evidence to the Planning Commission that all violations have been remedied and that all fines, deposits and/or costs have been submitted to the Village or to a court of competent jurisdiction. No permit shall issue unless the applicant complies with the regulations set forth in Section 7.02, all supplementary regulations, and all other regulations set forth in the Zoning Code and all other State, Federal and Village laws, regulations and standards.
12. There are hereby created groundwater recharge and discharge districts (hereinbefore and hereinafter referred to as recharge districts and discharge districts) within the Village of South Russell. The groundwater recharge area map for the Village of South Russell dated January, 1984, and as may be amended from time to time, shall be maintained at the Office of the Village Clerk. Any well to be located within an area designated on said map in the recharge district shall be located at a minimum distance of 2,000 feet from any water well or any existing structures either within or without the limits of the

Village of South Russell and 2,000 feet from any platted undeveloped land or land undergoing the process of subdivision or other residential development or other development where structures or uses will depend on groundwater for its potable water supply either within or without the limits of the Village of South Russell at the time an application is made for a conditional use permit for a gas and oil well. Any applicant seeking to obtain a conditional use permit for a gas and oil well within a discharge district may develop in accordance with gas and oil well discharge district regulations set forth in the chart at Section 7.02. Any gas and oil well located in the recharge district shall develop in accordance with the regulations set forth in the chart at Section 7.02 for gas and oil wells in recharge districts.

13. Any applicant for a gas and oil well permit whose proposed well shall be within 2,000 feet of any lake, whether natural or man-made, stream, creek, or other body of surface water within the Village of South Russell, shall indicate the same on their application for a conditional use permit. It shall be the duty of the Planning Commission to impose and the responsibility of the applicant to comply with additional conditions in order to assure that any said body of water shall not be exposed to any danger of erosion, siltation, pollution, contamination, or alteration. In addition, the Village of South Russell hereby deems Silver Creek, within the limits of the Village of South Russell, to be in an environmentally protected zone as the habitat of aquatic life listed on Recognized Endangered Species Lists. Any oil and gas well proposed to be drilled within 2,000 feet of Silver Creek shall present with their application for a conditional use permit measures to be taken to avoid any danger of injury to such species or their habitat and the Planning Commission and Village Engineer are hereby delegated the duty to establish and enforce conditions to insure that during drilling, production, and abandonment of any such gas and oil well, that no such injury occurs. The Commission shall determine, as one condition of the permit, the distance of any well, storage tanks, production equipment or other apparatus from Silver Creek. Adequate contingency plans shall be taken to avoid contamination of Silver Creek in the event that any of oil, gas, brine, waste, toxic materials or other such contamination spills during drilling, production or abandonment of any oil and gas well.
14. An applicant for a gas and oil well permit shall file an application on Form Z-3-A and submit all information set forth in Section 7.02 in order to be deemed to have submitted a complete application for a conditional use permit. Upon receipt of said application, the application shall be deemed to have been filed on the first Planning Commission Meeting after receipt of the application. The Planning Commission shall decide whether to grant, deny, or conditionally grant said permit within seventy-five days after the application is deemed filed with the Planning Commission. In order to meet the requirements to obtain a conditional use permit, the applicant shall file Form Z-3-A executed by the record owner of the real property, and owner if different than record owner, and producer if different than owner or land owner, and provide the following

information, deposits, bonds and other information or documents as is requested by the Planning Commission, Solicitor, Village Engineer, Village Hydrologist, Geologist and/or Petroleum Engineer (reference to Geologist or Petroleum Engineer herein shall mean either or both), and such other officials or consultants acting on behalf of the Village of South Russell in reviewing an application for a gas and oil well permit:

- a. Post a \$10,000 cash deposit with the application. This deposit shall cover the cost incurred by the Village in reviewing the application by the Planning Commission, Village Engineer, Village Hydrologist, Village Geologist or Petroleum Engineer, Village Solicitor, Environmental Biologist, and such other professionals which the Planning Commission deems necessary to review in order to determine the effect on the health, safety and welfare of the residents of the Village of South Russell if a permit were to be granted. If at any time should the deposit be reduced by disbursements in an amount less than \$2,500.00, the applicant shall be notified to post an additional \$2,500.00 to bring the cash deposit back to \$5,000.00. No permit shall be issued if an applicant fails to comply with the provisions of this section. Upon a final order granting or denying a permit, the applicant may request the return of the unused portion of the deposit.

- b. Applicant shall post a \$10,000 cash deposit or surety bond to guarantee proper maintenance and/or restoration of the drilling site after completion of drilling and proper abandonment of the well. If during review of an application for a conditional use permit, the Planning Commission determines that a higher cash deposit is necessary to guarantee property maintenance and/or restoration of the drilling site and proper abandonment of the same, the Planning Commission may order a higher cash deposit as a condition to the issuance of a conditional use permit. Further said cash deposit or bond will be used to properly landscape the premises in the event the applicant fails to do so and if the balance falls below \$10,000, the applicant shall submit a new bond or cash to insure adequate abandonment. Upon completion of abandonment procedures in compliance with State laws and to the satisfaction of the Commission and upon total restoration of the property in a condition satisfactory to the Commission, the applicant may make a request to the Commission to return any unused portion of the cash deposit or surety bond. Said cash deposit or surety bond shall be posted with the Village after approval of a permit by the Planning Commission and prior to the issuance of the conditional permit. By requesting a conditional use permit to drill a gas and oil well in the Village of South Russell, any applicant to have consented to the Village taking the steps to obtain abandonment of any gas and oil well being operated, at any stage, in violation of the Zoning Code or any other applicable Federal, State or Village law or regulations.

- c. Applicant shall post a \$5,000 cash deposit to defray the Village's cost of inspecting the oil and gas well and the site where said well will be drilled. All costs incurred by the Village in inspecting said wells and sites shall be reimbursed by said deposit of \$5,000. If at any time should this deposit be reduced by disbursements to the sum of \$1,000, the applicant shall be notified to post an additional \$2,000 to bring the total cash deposit back up to \$3,000. Upon satisfactory completion of drilling of said well, and upon commencement of production, the applicant may request a return of the unused portion of the cash deposit. In the event that the applicant has complied with all Village laws and regulations, the Village shall return all but \$2,000 of said deposit to the applicant. The remaining \$2,000 of said deposit may be used by the Village of South Russell for hearings, inspections, testing of water wells, springs and surface waters by the Hydrologist, or such other inspections deemed to be necessary by the Village of South Russell of said well site during the production and/or abandonment stages. If at any time should this deposit be reduced by disbursements to the sum of \$1,000, the applicant shall be notified to post an additional \$1,000 to bring the total cash deposit back up to \$2,000. Upon completion of abandonment procedures in compliance with all laws and regulations, said \$2,000 deposit or any unused portion remaining shall be returned to the applicant upon request. If the applicant, after drilling of a well, determines not to make a well a productive well, the \$5,000 cash deposit shall be held by the Village to insure that the applicant complies with all applicable laws and regulations regarding abandonment of said well and said deposit shall be returned upon the request of the applicant upon satisfactory evidence to the Planning Commission that all abandonment procedures have been complied with by applicant. Said \$5,000 cash deposit shall be posted to the Village after approval of a permit by the Planning Commission and prior to the issuance of the conditional use permit.
- d. Applicant shall file a copy of the State permit application as submitted to the Division, including all salt water and waste disposal plans and surveyor's map. Applicant shall provide the Planning Commission with a plan for the handling, storage, removal and disposal of drilling fluids and materials, salt water, frac-water, sludge and any other gas and oil field waste. Applicant shall also submit a copy of the spill prevention control and countermeasure plan when required by Federal laws or regulations. In addition, the applicant shall submit a timetable listing when site preparation is to begin, when drilling equipment is to be removed, when access roads are to be installed and completed, when permanent storage tanks are to be erected, when transmission lines are to be installed, and when production is to commence.

- e. Applicant shall submit a statement naming the land owner, owner if different than land owner, producer, all contractors, and the qualifications and experience of producers and contractors.
- f. Applicant shall submit a schematic drawing of the loading area and measures to be taken for removal of brine and oil from storage tanks in order to confine any spillage of the same. Said schematic drawing shall show an aerial view, and side view, indicating location of separator, tank, sump and loading area.
- g. Applicant shall submit a site development plan to be reviewed by the Planning Commission and Village Engineer. Applicant shall submit five copies of the site development plan along with Form Z-3-A. Said plan shall include the following, and applicant shall develop the property in accordance with the following requirements:
 - (1) North arrows.
 - (2) Name, address and telephone number of record owner of property, applicant and
 - (3) A vicinity map to a convenient scale showing the following:
 - (a) Property lines, boundary lines of drilling unit, streets, right-of-ways, corporation lines and easements adjacent the site.
 - (b) Well site.
 - (c) Tank battery site.
 - (d) Proposed permanent and construction drive locations.
 - (e) Piping from well to tanks and from tanks to point of connection to existing supply line.
 - (f) Nearest dwelling or occupied building and nearest water well in every quadrant indicating the same by showing an arrow and the distance in each quadrant to the nearest dwelling, building and water well.
 - (g) Show water courses, tree lines, marshes, water impoundments or other significant natural or man-made features within 2000 feet of the site.
 - (4) Enlarged details shall be provided at the well site and the tank battery site showing the following:

- (a) Well appurtenances: tanks, separators, piping valves, steel pits and dikes.
 - (b) Fences - to be provided around both the well site and tank battery site. Fence to be a cyclone fence with a minimum of 8 feet height with 3 strands of barbed wire on top. Gates to have provision for pad-locking. An additional gate is to be provided at the driveway entrance, outside of right-of-way, to prevent unauthorized vehicles from entering the site. Provide for padlocking. Show detail of gate on plan.
 - (c) Existing contours, with a minimum interval of 2 feet, shall be shown within 100 feet of the outer boundaries delineating the area of the proposed well site, steel pits, storage tanks, and all other temporary or permanent fixtures associated with either drilling or production. Maintain positive drainage. Show spoil pile locations.
 - (d) Drainage structures, accordance with criteria available through the Village Engineer.
- (5) Provide details as to width and composition of proposed permanent driveway. Minimum driveway width to be 10 feet. Minimum requirement for driveway material to be a graded, crushed aggregate of a size, and placed to a thick-ness, sufficient to prevent displacement under anticipated loading. The permanent driveway shall serve both the well and tank sites.

Provide details of the temporary construction drive which shall be installed to provide access and a staging area for equipment and materials. This drive shall be not less than 40 feet in width at the street tapering to not less than 30 feet at the right-of-way and extending from the right-of-way a minimum distance of 100 feet onto private property. It shall be constructed of a graded, crushed aggregate of a size, and placed to a thick-ness, to prevent displacement under the anticipated loading. If required by the Village Engineer, a properly sized culvert shall be installed at the street (minimum requirement is 12" diameter, 16 gage with annular ends). Unless the temporary drive is incorporated into the permanent drive, it shall be removed along with the culvert and the area restored to its original condition when the well site is restored. Positive drainage shall be maintained around this area at all times.

- (6) Show typical cross-sections through diked areas around tanks. Specify liners and method of securing same. State volume of each diked area (minimum volume to be twice tank capacity). No direct discharge will be permitted from the containment areas. Contents must be pumped out and removed from the site along with the brine.
- (7) Include restoration details. All disturbed areas to be fine graded, seeded and mulched on completion of grading operations. Between November 1, and March 1, apply mulch only. Temporary mulch to be removed and areas dressed, seeded and mulched after March 1. If, in the opinion of the Village Engineer, due to unique conditions of the site, a potential for erosion or sedimentation exists, a review by the Geauga Soil and Water Conservation District may be required. Recommendations prompted by their review or by the Village Engineer shall be incorporated in the Site Development Plan. Weather permitting, restoration shall be completed within 60 days after drilling is complete. Show all landscaping, location and plant type, proposed for screening purposes.
- (8) Provide an equipment list of those items to be installed at the site by manufacturer with model number or specifications, as applicable. Provide a list of all subcontractors to be employed and the work they will perform. Provide a list of temporary equipment to be utilized during the drilling operation including complete information on the blow-out preventer.
- (9) Provide typical trench sections for pipe lines showing depth of line, trench width, backfill, including bedding and encasement details (where applicable).
- (10) Give details of steel pit to be provided during the drilling operation, including dimensions and weight of steel pit, capacity and method of transport of steel pit into the Village and onto the drilling unit.
- (11) Add note indicating pressure testing procedures will be performed on all lines transporting gas (minimum requirement is two times anticipated operating pressure).
- (12) Within 30 days after commencement of production, submit to the Village an "as-built" mylar reproducible of the Site Development Plan for record.
- (13) Applicant shall file form Z-3-A and attach to said form all information requested in Section (u) herein and shall also

attach a description of the drilling procedures to be followed to include the intended depth of drilling, the method of extraction of oil and gas, and the method for abandonment of said well. Also attached to form Z-3-A shall be a list of all names and addresses of all persons, firms or other entities engaged in the process of site preparation, drilling, production, removal of brine or oil, transmission of gas, or any other activity necessary for the drilling and production of gas and oil on the well under consideration for a conditional use permit. The applicant shall also submit a list showing the names and addresses of all property owners within 1,000 feet of any boundary line of the drilling unit, based upon the most recent tax duplicate for Geauga County.

15. Whenever any well is proposed and the well site is located within 2,000 feet of Silver Creek, the applicant shall submit with form Z-3-A an impact study prepared by an expert in environmental biology along with a recommended course of procedure to control spills and reduce the risk of contamination or injury to Silver Creek and its inhabitants. The impact study shall contain, at a minimum, a recent survey of the species of aquatic life in Silver Creek that is within 2,000 feet from any point from the well site along with conclusions as to the potential adverse consequences to Silver Creek and its inhabitants in the event of contamination of Silver Creek by oil, gas, waste by-products of drilling and production, including salt water, brine, and other waste normally and reasonably associated with drilling and production of gas and oil wells in the State of Ohio. The Planning Commission may consult with and hire an environmental biologist to advise the Commission of any adverse impacts of any gas and oil well proposed to be located within the Village and recommend conditions to be imposed upon the applicant to reduce or eliminate the risk of contamination or injury to Silver Creek or any other body of surface water within the Village of South Russell.
16. The Village Engineer shall review the site development plan, anti-siltation plan to be submitted by applicant, and all other information submitted to the Planning Commission as required by the Zoning Code and shall recommend to the Planning Commission whether or not the applicant's proposal complies with the Zoning Code and what additional conditions, if any, should be imposed by the Planning Commission in the event that the Planning Commission grants a conditional use permit to the applicant.

17. The Village Hydrologist shall review each application to determine if the proposed well site will be in a recharge or discharge district and further review all information submitted to the Planning Commission to determine the effect of said well on surface and ground waters within the Village of South Russell and submit his recommendations to the Planning Commission as to the effect of said well upon the Village and further his recommendations for any conditions that should be imposed upon the applicant in the event that the Planning Commission grants a conditional use permit to the applicant.
18. The Village Geologist or Petroleum Engineer shall review all information submitted by the applicant to determine if the proposed drilling and production methods comply with all laws and regulations and shall recommend to the Village whether or not any additional conditions should be imposed in the event that the Planning Commission grants a conditional use permit to the applicant.
19. The Commission, in the event that it grants or conditionally grants a conditional use permit for an oil and gas well, shall establish a surety bond, in an amount to be determined by the Commission with a company or organization approved by the Commission, and in a form to be approved by the Solicitor, which amount shall be that sum the Commission deems necessary to guarantee the repair or replacement of possible damage of public property resulting from site preparation, drilling, production, abandonment or any other activity of any oil and gas well within the Village of South Russell. No conditional use permit shall be issued until such time as a surety bond naming the applicants as insureds is posted. Such surety bond shall be in effect during the life of the well and until abandonment of the well has been approved by the State and the Village and all other deposits have been returned to the applicant and all laws and regulations have been complied with by the applicant. The amount of the bond shall be established after the public hearing otherwise required by the Zoning Code and upon recommendation from the Village Engineer and Solicitor. Said bond shall specifically provide that it shall protect public property owned or controlled by the Village of South Russell or any other governmental body, and further said bond shall provide coverage, in the amount determined by the Commission, for any damage or injury to the public property regardless of fault on the part of the applicant. The Village of South Russell hereby deems the drilling, production and abandonment and all other facets of development of oil and gas wells to be an inherently dangerous activity and the applicant

shall be held strictly liable for any damage or injury to public or private property or to personal or bodily injury, regardless of fault on the part of the applicant, and it shall be unnecessary for any injured party to prove negligence or fault on the part of the applicant. Further, the applicant, by submitting an application for a permit for a gas and oil well, agrees that they shall hold harmless and indemnify the Village of South Russell from any and all loss, claims, demands, or causes of action, including reasonable attorneys fees and costs of suit, in the event the same is brought against the Village of South Russell as a result of any activity engaged in by the applicant or their contractors in furtherance of the drilling and production or abandonment of any oil and gas well within the Village of South Russell. In the event that the surety ceases to do business, or if for any other reason said surety bond becomes void, the applicant shall immediately substitute a similar surety bond in the same amount, and in a form to be approved by the Solicitor, and in the event that the applicant fails to submit a substitute bond within 7 days after receiving notice that the surety bond has become void, it shall be a violation of the Zoning Code and in addition to all other penalties, the Commission, after notice and public hearing within 30 days after notifying the applicant, may order the applicant to cease drilling or production, and comply with State abandonment procedures to abandon the well. In the event that the Planning Commission orders such to occur and the applicant fails to comply, the Village may use any and all cash deposits or bonds and enter onto the applicant's premises to cause the same to occur. By requesting a conditional use permit to drill a gas and oil well in the Village of South Russell, any applicant is deemed to have consented to the Village taking the necessary steps to obtain abandonment of any gas and oil well being operated, at any stage, in violation of the Zoning Code or any other applicable Federal, State or Village law or regulation.

20. The Commission shall establish a surety bond, in an amount to be determined by the Commission, and in a form to be approved by the Solicitor, necessary to guarantee the repair or replacement of possible damage to private property resulting from site preparation, drilling, production, abandonment or any other activity of any oil and gas well within the Village of South Russell. No conditional use permit shall be issued until such time as a surety bond naming the applicants as insureds and South Russell Village as additional insureds is posted. Such surety bond shall be in effect during the life of the well and until abandonment of the well has been approved by the State and the Village and all other deposits have been returned

to the applicant and all laws and regulations have been complied with by the applicant. The amount of the bond shall be established after the public hearing otherwise required by the Zoning Code and upon recommendation from the Village Engineer and Solicitor. Said bond shall specifically provide that it shall protect private property without limitation as to ownership or location of the same and further said bond shall provide coverage, in the amount determined by the Commission, for any damage or injury to real or personal private property or to personal or bodily injury regardless of fault on the part of the applicant. In the event that the surety ceases to do business, or if for any other reason said surety bond becomes void, the applicant shall immediately substitute a similar surety bond in the same amount, and in a form to be approved by the Solicitor and in the event that the applicant fails to submit a substitute bond within 7 days after receiving notice that the surety bond has become void, it shall be a violation of the Zoning Code and in addition to all other penalties, the Commission, after notice and public hearing within 30 days after notifying the applicant, may order the applicant to cease drilling or production, and comply with State abandonment procedures to abandon the well. In the event that the Planning Commission orders such to occur and the applicant fails to comply, the Village may use any and all cash deposits or bonds and enter onto the applicant's premises to cause the same to occur.

21. The applicant shall submit information to the Commission with satisfactory proof that applicant has the ability to remove all brine, drilling materials, sludge, and other materials required to be removed and which shall not be disposed of anywhere in the Village of South Russell. Applicant shall prove to the satisfaction of the Commission that the applicant has available a brine injection well with sufficient capacity to accept all materials to be removed from the Village of South Russell and that said injection well or wells have been inspected and approved by the State of Ohio. No permit for a gas and oil well shall be issued until such proof, to the satisfaction of the Commission, is presented by the applicant.

(w) In addition to the regulations set forth in Section 7.02(u), gas and oil wells shall be subject to the following supplementary regulations and any conditional use permit issued by the Commission shall be subject to compliance with all regulations set forth in this Section. Any act or omission in violation of this Section shall be deemed to be a violation of the terms and conditions of the conditional use permit and a violation of the Zoning Code and shall subject the permit holder to revocation of the conditional use permit and/or any penalty or fine that may be imposed under the Zoning Code.

1. After a conditional use permit has been granted, the applicant shall meet with the geologist or petroleum engineer retained by the Village to coordinate inspection of the drilling and production of the gas and oil well and to permit said geologist or petroleum engineer to adequately advise and consult the Village as to compliance with this Zoning Code after issuance of the zoning permit. The geologist or petroleum engineer shall be responsible to inspect, and shall have the authority to approve or disapprove any act or omission of the applicant in furtherance of drilling, production or abandonment of any oil and gas well at any stage and shall be present during the following stages:
 - (a) He shall observe and along with the Village Engineer approve the actual site for construction and drilling of the well and the well site area.
 - (b) He shall observe completion of the surface hole and approve the method and amount of cementing of surface casing of the well.
 - (c) He shall provide inspections of the well site during drilling of the remainder of the hole.
 - (d) He shall be present prior to fracturing the well for water flowback room and spillage control and approve fracturing of the well and shall also be present to observe flowback of frac-water during the fracturing process.
 - (e) He shall provide inspections of the flowback pit during the swabbing phase after fracturing to insure spillage and contamination control and shall approve along with the Village Engineer, prior to drilling, steel pit placement and size, and the methods of containing flowback and liquids to be contained in the steel pit during drilling and removal of drilling materials from the steel pit.
 - (f) Inspect and approve tank battery construction, location and equipment and inspect completed and reclaimed location of well construction site area.
 - (g) Inspect and approve plugging or capping of well.
 - (h) Inspect and approve abandonment of well.
2. All costs incurred by the Village as a result of inspections to be made by the Village Engineer, Village Geologist or Petroleum Engineer, Village Hydrologist, Environmental Biologist, Solicitor and all other Village officials, shall be reimbursed to the Village by the applicant as provided in Section 7.02(U). In the event that any Village official determines that compliance with the Zoning Code or any conditions imposed by the Zoning Commission is being violated, or determines that any act or omission on the part of the applicant will have an immediate adverse impact on the health, safety, or welfare of the residents of the Village of South Russell and upon the applicant receiving either oral or written notice of the same, the applicant shall immediately cease all activities in furtherance of the development of the well site until compliance with the Zoning Code, or Planning Commission conditions, or acts necessary to eliminate any adverse impact on the health, safety,

and welfare as stated hereinabove, has been made unless the Village Engineer, Geologist or Petroleum Engineer or Hydrologist deems it hazardous to cease such activities in whole or in part. In the event that any other Village official determines that the applicant is in violation of the Zoning Code or any conditions imposed by the Planning Commission, such Village official shall have the authority to order the applicant to immediately cease all activities on the premises in furtherance of development of the well site until compliance with the Zoning Code or conditions of the Planning Commission has been made.

3. The applicant shall provide ingress and egress roads to all well sites and all storage tank sites. Roads to the well site shall be constructed, in accordance with plans approved by the Village Engineer, prior to drilling and roads to storage tank sites shall be installed, (and approved prior to construction by the Village Engineer) prior to installation of tanks. The applicant shall notify the Village Engineer to inspect the roads for suitability before moving any equipment into the site. All access roads shall be maintained so as to be dust free and passable in all seasons and weather conditions. Access roads shall be adequately fenced with a locked gate to prevent unauthorized entry from public roads. Not more than two access points shall be established from any public road to any well site. Access roads shall have a turnaround of sufficient size to accommodate fire and rescue and other emergency vehicles servicing the Village.
4. The applicant shall fill and level all areas excavated for steel pits within seven days after the applicant is ready to commence production and restore the land to its original condition. The applicant shall remove all drilling fluids, materials and sludge from the steel pit prior to removing the steel pit from the site and haul the drilling fluids, materials or sludge outside of the Village of South Russell for disposal. Filling and restoration shall be subject to inspection and approval by the Village Engineer and Geologist or Petroleum Engineer. The applicant shall notify the Village Engineer at initiation and upon completion of restoration.
5. The name, address and telephone number of each person signed on the application, along with each operator and contractor responsible for ownership, operation, and all maintenance of each well site located within the Village shall be conspicuously placed on each tank battery and be furnished to the Building Inspector and Chief of Police for the Village of South Russell. The Building Inspector shall prepare a list of all such names and addresses and telephone numbers and shall keep the list posted in a conspicuous place in the Police Department and in the Building Department office for ready reference. The applicant, along with furnishing the name, address and telephone numbers indicated herein, shall also provide the location of each well site, separation and storage tanks, and the location and color identity of power and shutoff valves. Keys for emergency access to each well and tank site shall be made available to the Police Department. Well and tank sites under the same ownership or control shall have gates and fences with master keys capable of opening all locks on gates and fences and equipment. Such keys shall be provided to the Building Inspector and the Chief of Police for the Village. Before commencing drilling operations and during production of the well, a sign of two square feet, and orange

in color, shall be posted at the access road entrance gate showing the street number, owner, operator, lessee, if any, well number, State and Village permit numbers, and all emergency telephone numbers. All storage tanks shall be above ground, painted forest green, and lined with a coal-tar based material held with an epoxy to eliminate leakage. All shutoff valves shall be painted in florescent orange. All power, storage and transmission line shutoff valves shall be secured by locks or similar devices to prevent unauthorized access or usage. Prior to commencing production, all permanent producing and storage facilities shall be enclosed entirely by a cyclone fence to be a minimum of eight feet high with three strands of barbed wire on the top and adequate to prevent trespassing at all times. A temporary fence shall be constructed prior to commencement of drilling to prevent unauthorized access to drilling equipment and any excavations.

6. During drilling of wells, casings shall be cemented in quantities and qualities to be approved by the Geologist or Petroleum Engineer and Village Engineer to a minimum depth of 500 feet below the surface. The Village Geologist or Petroleum Engineer shall insure that the cement provided shall be sufficiently adequate to case 500 feet of annular volume and shall fill the annular space entirely for a minimum depth of 500 feet. A record of the depth of the cemented casings shall be filed with the Building Inspector for the Village.
7. The applicant shall provide the Building Inspector with a plat of all buried transmission lines. No person shall place any transmission lines within the Village of South Russell without first obtaining a written easement therefore and recording the same with the Geauga County Recorder. Prior to opening any public street to bury transmission lines, the applicant shall comply with Village ordinances and obtain a street opening permit pursuant to the requirements set forth in Chapter 1010 of the Codified Ordinances. All buried transmission lines crossing any public street shall be marked by a permanent marker on both sides of the street, in a location and format acceptable to the Village Engineer. At street crossings the line shall be installed to a minimum depth of six feet and to a minimum depth of thirty-six inches beneath ditches. All pipes being installed other than at street crossings shall be buried a minimum of twenty-four inches under the surface or twenty-four inches below a normal river or creek bed. No transmission lines intended for burial shall be covered until the installed line is inspected by the Village Engineer. When required by the Village Engineer, the applicant shall increase or decrease the depth of transmission lines. The applicant shall coordinate the laying of transmission lines with all public utilities servicing the Village of South Russell.
8. The following regulations shall apply during drilling and production of oil and gas wells:
 - (a) During the drilling phase, all flowback and waste shall be accumulated in containers and no hydrocarbons, waste, water or other such elements shall be permitted to enter the atmosphere at the well site. Upon fracturing of any well, the applicant shall contain flowback entirely within an adequately vented

enclosed system to be approved by the Village Geologist or Petroleum Engineer.

- (b) All storage tanks for storage of oil, water, salt brine and other such elements shall be lined with a coal-tar based material held with an epoxy on the inside of the tank to avoid leakage and be equipped with a thief-hatch cover in a location satisfactory to the Village Geologist or Petroleum Engineer in order to sufficiently enable visual inspection of the tank and shall be kept closed at all times when not in use. Any brine storage tank manhole shall have a device securely attached across the opening of the manhole to eliminate access into the storage tank. The oil storage tank shall be equipped with a vent pipe with a safety check valve installed in the vent pipe on top of the storage tank.
- (c) In the event that the Village Geologist or Petroleum Engineer determines that any drilling or production of a gas and oil well causes any sour gas, or gas or oil odor deemed to be a nuisance by the Village Geologist or Petroleum Engineer, the applicant shall take all necessary steps to eliminate escape of any sour gas and where ordered by the Village Geologist or Petroleum Engineer, shall provide a filter retrofitted on all storage tanks and shall insure during production of any well that said filters are either cleaned or replaced in order to adequately suppress odor.
- (d) The flow line from the well to the separator device shall have a pressure activated shutoff valve system to cut off the flow just prior to the opening of the safety valve on the separator.
- (e) In the event that the well system utilizes a pump jack, the pump jack shall also have an automatic shut-down system, to stop fluid spill if rod packing leaks, approved by the Village Geologist or Petroleum Engineer. At least once each year, commencing at initial production of a well, the applicant shall test all safety valves used in the production of oil and gas to determine that they are properly functioning and shall report the same to the Building Inspector. If said report is not received within fifteen days after the anniversary date, the Building Inspector and Village Geologist or Petroleum Engineer shall inspect the premises, to determine the same, and obtain reimbursement of the cost of such inspection from the applicant or any bond or deposit of the applicant being held by the Village.
- (f) All motor powered equipment intended for permanent use in production of wells or transmission of fluid or gas shall be operated only on electrical power. This regulation shall not apply to motors used in drilling operations or mobile service rigs at the site. Any diesel engines being utilized during the drilling stage shall have adequate mufflers to suppress sound and each drilling rig shall be provided with fire resistant soundproofing material and shall be subject to the approval of the Village Geologist or Petroleum Engineer. All storage tanks, separators, and distribution pipes shall be surrounded by a minimum of one-inch clay seal on the surface of the ground and shall be

contained by a retainer wall with a minimum one-inch clay seal capable of holding two times the capacity of all storage tanks. The applicant shall provide a loading area to the storage tanks with provisions for a ramp so that if any spillage occurs while removing any materials from storage tanks that any spill will go into a sump which can be pumped into a brine removal vehicle. The sump area shall be constructed by excavating a hole that shall be lined with clay and sufficient in size to contain a 55 gallon metal drum that shall be placed in the hole and said drum shall be weighed down with rocks, metal, or other materials satisfactory to the Engineer, or Village Geologist or Petroleum Engineer in order to keep said drum submerged. Whenever the brine removal vehicle is at the loading area, all fluids in said sump shall be pumped into the brine removal vehicle. Applicant shall not permit the fluids in the sump to overflow at any time. Such areas shall be developed in accordance with Diagram "A" which is attached hereto and made a part hereof and the area of the pit shall be equal to or greater than two times the capacity of all storage tanks at the site.

- (g) The maximum sound level of all operations during the drilling stage shall be 65 decibels at a distance of 350 feet not to be exceeded more than 10% of the time during drilling. In the event that any Village official determines that the decibel limit has been violated, such official shall order the applicant to cease production until adequate measures are taken to reduce the decibel level equal to or less than 65 decibels at a distance of 350 feet.
- (h) Prior to drilling, the applicant shall transport steel pits to the site sufficient in size to contain all liquids produced as a result of anticipated drilling procedures. The steel pit shall have a capacity not to exceed 10,000 gallons. Each pit shall be constructed of steel and regardless of whether or not said steel pits are buried in the ground or entirely on the surface, there shall be a minimum one-inch clay seal underneath said steel pit. The clay material to be used as a sealant shall be approved by the Village Engineer prior to placement of the steel pit. During drilling, the drilling fluids, and other materials in said steel pits shall not be permitted to exceed a level of 18 inches from the top of said steel pit and shall be removed from the steel pit prior to being placed back into use. Further said steel pits shall not become filled to a capacity that will cause a substantial probability of overflowing. The location, volume and construction of said steel pits shall be subject to the approval of the Village Engineer and Geologist or Petroleum Engineer. No earthen pits shall be permitted for containment of drilling fluids or materials.
- (i) Any liquid or waste, other than water used within the contained flowback process, extracted from a well during drilling or production shall not be re-injected into the ground within the Village of South Russell. All such wastes and brines shall be stored in tanks and removed from the Village by haulers who shall first obtain a permit from the Building Inspector. Such haulers shall prove their ability and experience to remove such waste and brine safely and provide evidence of liability insurance in an amount satisfactory to the Village

Solicitor. When requested by Village officials, said hauler shall produce receipts for the location where such wastes or brine are injected.

- (j) During drilling of a well, the applicant shall install a blowout preventer with a remote manual preventer control, to shut down the system. The applicant shall also install a gas detector meter to the drilling apparatus to determine if a gas pocket has been hit during drilling. The applicant or his agents shall be on site during all phases of drilling and the applicant shall insure that adequate and knowledgeable and experienced drillers shall be on site during all phases of drilling.
- (k) The applicant, during production of a well, shall make daily fluid level checks of all oil, gas, brine, waste and other elements removed from any well and shall also check on a daily basis the condition of all equipment, and any joint or connection under pressure and above ground which carries fluids or gases under pressure shall be inspected weekly to ensure no leakage and shall provide a monthly report to the Building Inspector of fluid levels indicated herein, the condition of all equipment, the pressure level of all equipment, leaks, if any, and advise the Building Inspector of efforts taken to avoid build-up of paraffin on any equipment or apparatus contained at a well site. The Village Building Inspector shall prepare an inspection form to be filled out monthly by the applicant and filed by the 5th of each month.
- (l) The person or persons who will perform the fracture of each well, shall be subject to approval of the Village Geologist or Petroleum Engineer who shall insure that such person or persons are adequately experienced and will take adequate precautions to avoid any danger to person or property.
- (m) In the event that any well site, in the opinion of the Village Engineer or Hydrologist, is sufficiently close enough to potentially adversely affect any existing pond, stream, lake or other body of surface water, the applicant shall construct diversionary ditches and devise and construct an impounding system to contain any liquids that might otherwise escape from the well site and such ditches and impounding systems shall be constructed in a manner approved by the Village Engineer.
- (n) After conclusion of the drilling stage, and upon the date when notice is required to be given to the Village of the commencement of production, the applicant shall remove all drilling equipment, temporary tanks and other materials not intended to be permanently placed at the well site.
- (o) All landscaping shall be completed within 60 days and all grading shall be completed within 14 days after drilling is completed. The site where all permanent storage tanks and other apparatus will be located shall be screened with natural vegetation and such vegetation, when planted shall be at least five feet in height, and with the ability to grow to at least fifteen feet in height.

- (p) All storage tanks, apparatus and other equipment located above ground at a well site shall be removed and abandonment completed within 180 days after a well stops producing and the ground shall be restored, to the extent possible, to its original condition prior to drilling of said well, within said 180 day period.
- (q) The Village Hydrologist shall, at the applicant's expense, on at least a semiannual basis, test the nearest water well, spring, and downstream surface water at locations selected by the Village Hydrologist and to be tested at a laboratory to be determined by the Village Hydrologist to insure that no groundwater or surface water is being contaminated as a result of any oil and gas well operation. The Hydrologist shall submit a copy of the results of said tests to the applicant and to the Building Inspector. In the event that said testing determines that any contamination has occurred, the applicant shall cease production until the source of contamination is located and the applicant is able to eliminate the source of contamination to the satisfaction of the Village Hydrologist.
- (r) The applicant shall comply, in addition with all regulations and conditions set forth in the Chapter, with the regulations set forth in Chapter 10 and 11 of this Code providing for development and performance regulations. The applicant shall be aware of and comply with the Village Soil Erosion Ordinance and Chapter 1010 of Codified Ordinances regarding street opening and shall consult with the Village Engineer to insure compliance with said Ordinances.
- (s) In the event an applicant at any time determines to cap a producing well, the applicant shall notify the Building Inspector. The applicant shall advise the Building Inspector of the length of time said well shall be capped and shall further notify the Building Inspector when the well will again be made productive. The Building Inspector upon receiving notice of the applicant's intention to cap the well shall notify the Village Geologist or Petroleum Engineer who shall then inspect any well after it is capped to insure that the applicant has safely capped the well. If the well is capped for more than one year, abandonment proceedings shall be commenced and completed within one month thereafter unless an extension is requested by applicant and approved by the Commission.
- (t) The applicant shall not permit any hydrocarbons or brines to enter the Sharon or Berea Sandstone formations during drilling or production of any oil and gas well. In the event that such contamination of either sandstone shall occur, the applicant shall immediately notify the Building Inspector who shall then notify the Village Hydrologist to determine if any temporary or permanent damage has occurred to the potable water supply.
- (u) During the drilling stage, no other improvement or additional use shall be placed on the drilling unit. Following initiation of production, as approved by all Village officials, such additional improvements and uses as may conform

to the Zoning Code may be initiated on the drilling unit subject to the restrictions of all other applicable laws and regulations of the Village and State of Ohio. In recharge districts, no new structure shall be located within 2,000 feet of any well site area within the drilling unit or any land outside of the drilling unit contiguous thereto and owned by applicant. Within a discharge district, no new structure shall be located within 300 feet of any well site area. No minor or major subdivision shall be permitted to be platted or developed upon the drilling unit while any well is still producing and has not been abandoned on the drilling unit without obtaining the approval of the Planning Commission after public hearing and notice and in accordance with procedures set out for public hearings in the Subdivision Regulations. No minor or major subdivision shall be permitted to be developed by the Planning Commission that would endanger the health, safety, or welfare of the residents of said subdivisions, any structures to be developed thereon, and any water well or central water system to be constructed on the drilling unit. The Planning Commission shall insure that no development is permitted or any common area in any subdivision is permitted to be developed in violation of the Zoning Code or within a distance from any well site that would cause unreasonable sights, smells, odors, sounds, attractions to minors, or any other detriment to the health, safety and welfare of the residents and natural resources contained within the Village of South Russell. The Planning Commission shall insure that no structures or common areas are permitted to be developed in an area that may be unreasonably exposed to dangers associated with production, transmission or abandonment of oil and gas wells. The well site area shall include the oil and gas well, any storage or separation tanks, compressor station, or pit or containment areas for the storage of brine and other wastes.

- (v) Applicant shall be prohibited from accumulating combustible materials in the well site area and upon order of any Village official, shall remove any combustible materials that in the opinion of such Village official may be hazardous. Permanent no smoking signs shall be posted at the entrance gate, on the oil storage tanks and temporary signs shall be posted at the drilling site until production commences. No person shall smoke any cigarette, cigar, pipe or other form of tobacco or have any matches, open flames, or burn any other combustible material at the well site during drilling or when handling or removing gas at the well site. The applicant shall insure that when any welding occurs on the premises that suitable welding screens are utilized to protect any person from injury.
- (w) All artificial lighting used during drilling or production of any gas and oil well shall be designed, constructed and located in such a manner to prevent emission upon any property not within the drilling unit.
- (x) The use of nitroglycerin as an explosive shall be prohibited during any phase of drilling, fracturing, operation or production or abandonment of a gas and oil well. The applicant and any contractor shall be permitted to use an explosive

other than nitroglycerin to perforate the casing and cement prior to fracturing of a well. Explosives shall not be used to otherwise increase the porosity and permeability of the subsurface and fracturing shall be through the process of hydro-fracturing unless otherwise approved by the Village Geologist or Petroleum Engineer.

- (y) No person shall refine or otherwise process for extraction the products of a gas and oil well except when necessary to make gas acceptable to flow through gas transmission lines and in the event that the latter becomes necessary, the applicant shall notify the Building Inspector prior to commencement of such processing or production. Any burner unit installed in an oil storage tank shall be properly vented and attended to ensure no excess heating within the tank while in use.
- (z) If, during drilling, the site will be unattended at any time, and during the completion phase of drilling, when the well site area is unattended, the applicant shall cap the assembled sections of the well to avoid any hazard or leakage of hydrocarbons or wastes or other elements.
- (aa) All pipe and related fittings must be equal to or better than the American Petroleum Institute Code 5-L, Grade B, and consist of prime material with standard coating. Any deviation from these standards shall be approved by the Village Geologist or Petroleum Engineer prior to construction of the same at the well site. Upon completion of construction of all tanks and other apparatus to remain on the well site and laying of pipelines, the applicant shall return all disturbed public or private roads, driveways, walks, or approaches to their original condition before disturbance to the satisfaction of the Village Engineer. Applicant shall backfill to existing grade level in such a manner so as to prevent erosion or siltation and shall complete all of the same within 14 days after completion of installation of storage tanks and other apparatus and pipelines.
- (bb) A hydrostatic test of all pipelines from the well to the separator and from the separator to transmission lines shall be performed by the applicant prior to placing said line or any section thereof into operation. A hydro-static test, or such other test as may be approved by the Village Geologist or Petroleum Engineer shall consist of a pressure not less than two times the expected maximum operating pressure and shall be recorded over a minimum period of 48 hours. In the event that any drop of pressure is noted within said 48 hour period, the line shall not be made operational until the line is capable of performing as set forth in this paragraph.
- (cc) All gas produced from wells shall be transported from the drill site by means of underground pipeline connected directly with the producing well to the separator or treating facilities by a completely closed system without venting high pressure gas or the products of gas to the atmosphere at the production site. All oil produced from the wells on the well site may be transported from

storage tanks by means of underground pipelines or by tank trucks whose holding capacity shall not exceed 100 barrels. Oil storage tanks shall be no larger than that sufficient to contain and store 210 barrels of oil (each barrel capable of holding 42 U.S. gallons).

- (dd) The applicant shall not violate Ordinance No. 1983-51 which prohibits pollution of waters within the Village of South Russell and the applicant shall review and become familiar with said Ordinance and consult with the Village hydrologist in order to insure that all measures are taken to eliminate the risk of such contamination.
- (ee) In the event that technological improvements are made in the gas and oil industry and additional safeguards are available to applicant, in order to protect person or property from any hazards and such technological improvements are available at a reasonable cost, and upon notice from the Village of South Russell or its officials, the applicant shall if technologically possible, incorporate such technological improvements into its gas and oil well drilling, production, transmission or abandonment operations. The Village shall provide such notice in writing to the applicant and the applicant shall have the right to request a public hearing to be held within 21 days after written notice is received by the applicant and any party may appeal to the Zoning Board of Appeals any adverse decision of the Planning Commission which decision shall be made within 14 days after said public hearing. The Planning Commission need not advertise said public hearing nor send notice to those persons otherwise entitled to notices of public hearing under the Zoning Code.
- (ff) All waste substances such as drilling muds, brine or acids produced or used in connection with drilling operations or production shall be retained in water-tight receptors from which they shall be hauled from the premises for disposal outside of the Village of South Russell within ten days after the completion of drilling and no production shall commence until such removal has occurred.
- (gg) Truck routes in and out of the well site shall be approved by the Commission. The Board shall require that truck routes through Village streets be limited to roads that can accept the load limits and shall consider routes that will minimize wear on public street 2 within the Village and which would prevent hazards and damage to other properties in the Village.
- (hh) The applicant shall be responsible for maintaining the public roads in a debris-free condition at all times and it shall be the responsibility of the applicant to cause the public roads to be free of all debris, mud and other materials that accumulate as a result of drilling, production, transmission, hauling or abandonment proceedings.
- (ii) The applicant shall provide one off-street parking space for each employee engaged in the drilling process and shall provide at least two permanent off-

street parking spaces at the site where production equipment will be located. All trucks, machinery, drilling rigs and other equipment temporarily stored at the site shall be kept within a temporary fenced-in area around the well site when not in use. All extracted materials during drilling and stored at the site, shall be kept within such fenced-in area.

- (jj) In addition to the regulations set forth in Section 7.02(u) and those regulations set forth in Section 7.02(v) herein, the Commission may, after public hearing, impose such other conditions, requirements, limitations, and delegation of authority to other village officials, which the Commission may deem necessary for the protection of property and person and in furtherance of the health, safety and welfare of the residents of South Russell Village and surrounding communities.

(x) VIOLATIONS AND PENALTIES:

1. Whoever violates any provision of Chapter 7 of the Zoning Code or any orders or terms or conditions of a permit issued pursuant to Chapter 7, shall be fined not less than \$100 nor more than \$1,000 for a first offense, for each subsequent offense, such person shall be fined not less than \$200 nor more than \$2,000. Whoever violates Section 7.02(v)(8)(I) or orders or terms or conditions of a permit issued thereunder shall be fined not more than \$5,000 for each day of violation. Any penalties provided for herein shall be in addition to any other remedies, whether legal or equitable, that the municipality may deem necessary to prevent or remedy a violation of the Zoning Code.
2. In the event of any violation of the provisions of Chapter 7 of the Zoning Code or any orders or terms or conditions of any conditional use permit issued under Chapter 7 of the Zoning Code, a conditional use permit issued by the Commission may be revoked. The Commission shall notify the applicant by certified mail of its intent to revoke the conditional use permit and of the applicant's right to hearing before the Commission, within 30 days of the mailing of the notice, if the applicant so requests. If the applicant requests a hearing, the Commission shall set a time and place for the hearing, and notify the applicant. The Commission shall cause a notice of the hearing to be published in a newspaper of general circulation at least 10 days prior to the hearing. At the hearing the applicant may appear in person, or by his attorney, or the applicant may present his position in writing. The applicant may present evidence and examine witnesses appearing for or against him. If no hearing is requested, the Commission may revoke the conditional use permit without a hearing. The authority of the Commission to revoke a conditional use permit is in addition to any other means of zoning enforcement otherwise provided by the Zoning Code. At the hearing, the Building Inspector shall present the grounds upon which it is claimed that the Zoning Code or any order, term or condition of the conditional use permit has been violated by the applicant. The Commission shall conduct the hearing in the same manner and procedure as

upon a decision of the Commission within 20 days after the Commission acts in revoking a conditional use permit or in determining not to revoke a conditional use permit to the Zoning Board of Appeals.

3. Applicant shall at all times maintain, repair, repaint and replace any storage tank on the drilling unit and shall adequately maintain, repair and replace all fences required under the Zoning Code. In the event that the applicant fails to maintain, repair, repaint and replace any storage tank on the drilling unit and shall adequately maintain, repair and replace all fences required under the Zoning Code. In the event that the applicant fails to maintain, repair or replace any fence, tank, dike, or any other structure or apparatus contained on the drilling unit for the purpose of oil and gas well drilling, production or transmission, the Commission may order the applicant to shut down and cap any producing well or commence revocation of the conditional use permit.
4. The applicant shall notify the South Russell Village Police Department prior to moving any equipment on or off the drilling unit. In the event an oversized or over-weight vehicle is used as defined in Codified Ordinance Section 440.01 of the South Russell Village Codified Ordinances, a special permit for the overweight or oversized vehicle shall be obtained pursuant to Section 440.01.
5. In the event that the South Russell Village Geologist or Petroleum Engineer or Engineer determines that site preparation, drilling operations, or fracturing operations are hazardous, or may cause damage to surrounding properties due to either weather conditions, geologic conditions, or other conditions, the said drilling or fracturing will adversely affect the health, safety and general welfare of the residents of the Village of South Russell, the applicant shall cease drilling operations from either oral or written notice from the Village Engineer or Village Geologist or Petroleum Engineer and shall not commence further operations until permission is received from said official. Any violation of this paragraph shall subject the applicant to any fine or penalty that may be imposed under the Zoning Code, including revocation of a conditional use permit. The applicant, any contractor, driller, hauler, operator, or any other person, firm or entity engaged in the development, drilling, fracturing, production, transmission or abandonment of any oil and gas well shall comply with all lawful orders of any official or consultant of the Village of South Russell. Any violation of this section shall subject the offender to any fine or penalty imposed by the Zoning Code as well as revocation of any conditional use permit.
6. In the event that the applicant violates any provision of the Zoning Code, or any term or order authorized under the Zoning Code by an official of the Village of South Russell or any consultant of the Village of South Russell or any condition of any conditional use permit granted to the applicant, such violation shall be just cause for the Commission to forfeit any cash bond being held on deposit with the Village of South Russell pursuant to the Zoning

Code. In the event that the Commission intends to institute forfeiture of any cash bond or applicant, the Commission shall give the applicant ten days notice of the same. If applicant, within seven days after receiving notice, requests a hearing the Commission shall hold such hearing within twenty-one days thereafter. If the Commission does cause forfeiture on any cash bond, the Village Treasurer shall cause the same to be deposited in the general fund of the Village. The applicant shall have a right of appeal, within twenty days after forfeiture of the bond, to the Zoning Board of Appeals in the event that the Commission does forfeit any cash bond of the applicant.

7. Any person applying for a conditional use permit for a gas and oil well and any person obtaining a conditional use permit for a gas and oil well is hereby deemed to consent to any South Russell Village official or consultant inspecting the drilling unit and any activity engaged in at any drilling unit at all reasonable times. Due to the nature of gas and oil well operations and the inspections required under Chapter 7 of the Zoning Code, the applicant shall permit entry onto the drilling unit by any official or consultant at any time during site preparation, drilling, fracturing, production, trans-mission, and abandonment, and at such other reasonable times as requested by any official or consultant of the Village of South Russell. For purposes of this section and for Chapter 7 of the Zoning Code, reference to any official or consultant shall include any elected or appointed official or employee of the Village of South Russell or any person retained by the Village to consult with Village officials or any Fire Marshall or Safety Inspector having jurisdiction within the Village.
8. The production of oil and gas on any well within the Village of South which is to be removed from a drilling unit by either transmission lines, motor vehicle, or other method shall be deemed to be a sale made in the Village of South Russell pursuant to Codified Ordinance Section 880.06 and the applicant shall be liable for income taxes on all sales of oil and gas originating from oil and gas wells within the Village of South Russell. The applicant shall provide the Village Treasurer with an annual report of the total volume of production of gas and oil and the total revenues obtained from the sale of such gas and oil. Said report shall be delivered to the Village Treasurer no later than the 30th day of January of each year after production commences.

(y) WIRELESS TELECOMMUNICATIONS FACILITY:

1. DEFINITIONS:
 - A. **Collocation** - The use of a wireless telecommunications facility by more than one wireless telecommunications provider.
 - B. **Lattice tower** - A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

- C. **Monopole** - A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.
- D. **Open Space** - Land devoted to conservation or recreational purposes and/or land designed by a municipality to remain undeveloped (may be specified on a zoning map).
- E. **Telecommunication** - The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.
- F. **Wireless telecommunications antenna** - The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.
- G. **Wireless telecommunications equipment shelter** - The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.
- H. **Wireless telecommunications facility** - A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
- I. **Wireless telecommunications tower** - A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

2. A wireless telecommunications facility which includes a tower may be permitted as a conditional use in a light industrial (I-1), business and light industrial (B-1 and I-1), business (B-1), limited business (B-2), medical hospital service (B-3), limited offices (B-4), districts or, if the applicant satisfies the requirements of paragraphs 3 and 6 set forth below, in any residential (R-1A, R-1B, R-1C, R-1D, R-2, R-3, and RN-1) district on either institutionally used property or within a high tension power line corridor. In order to be considered for review in any of the above-described zoning districts, the applicant must prove that a newly-constructed tower is necessary in that opportunities for collocation on an existing tower is not feasible, as set forth in paragraph 4E below.

3. In applying for a permit for a wireless telecommunications facility on any institutionally used property in a residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate non-residential zone. For purposes of this Zoning Code, institutional use shall include, but not be limited to, the following: Church, Park, Library, Municipal/Government, School, Hospital/Clinic. Applicant must demonstrate it has exhausted all reasonable efforts to locate in a non-residential zone prior to being approved in a residential zone.

4. The following requirements apply to all wireless telecommunications facilities regardless of the zoning district in which they are to be located.

- A. When the proposed wireless telecommunications facility is to include a new tower, a plot plan at a scale not less than 1" is equal to 100' shall be submitted. This plot shall indicate all building uses within 300' of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
- B. Security fencing 8' in height shall surround the tower, equipment shelter and any guide wires, either completely or individually as determined by the Planning Commission.
- C. The following buffer plantings shall be located around the perimeter of the security fence as deemed appropriate by the Planning Commission:
 - (1) An evergreen screen shall be planted that exists of either a hedge, planted 3' on center maximum, or a row of evergreen trees planted 5' on center maximum.
- D. Existing vegetation (trees and shrubs) on the proposed site for the location of the wireless telecommunication facility shall be preserved to the maximum extent possible.
- E. Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a quarter mile of the proposed facility. The applicant shall inquire about potential collocation opportunities at all technically feasible locations. The contact and provider shall be requested to respond in writing to the inquiry within thirty (30) days. The applicant's letter(s) as well as response(s) shall be presented to the Planning Commission as a means of demonstrating the need for a new tower.
- F. Any application to locate an antenna on a building or structure that is listed on an historical register, or is in an historic district shall be subject to review by the municipality's architectural review board. Any new building or structure that is part of a wireless telecommunications facility shall be subject to review by the Architectural Review Board.
- G. The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
- H. No advertising is permitted anywhere on the facility, with the exception of identification signage, which shall be limited to setting forth the name, address and phone number of the company operating the facility. Signage shall be located on the exterior of the wireless telecommunications equipment shelter, shall be located near the entrance to such shelter and shall not exceed twelve (12) square feet of signage area.

- I. All providers utilizing towers shall present a report to the Zoning Inspector notifying him of any tower facility located in the Municipality whose use will be discontinued and the date this use will cease. If at any time the use of any facility is discontinued for 180 days, the Zoning Inspector may declare the facility abandoned. If this facility is abandoned it shall be presumed to be a nuisance affecting or endangering surrounding property values, and being detrimental to the public health, safety, convenience, comfort, and general welfare of the community and shall be abated. The Zoning Inspector shall then give notice in the same manner as service of summons in civil cases, or by certified mail addressed to the owner of record of the premises at his last known address, or to the address to which tax bills are sent, or by a combination of the foregoing methods, to abate such abandoned condition within 60 days either by placing the facility in operation in accordance with this Code, adapting and using the facility for another permitted business use, or by razing the facility. Upon failure, neglect or refusal of any owner to comply with the notice to abate such abandonment, the Zoning Inspector shall take such action as may be necessary to abate said nuisance. If reactivation or dismantling does not occur, the Municipality may remove or contract to have removed the facility and assess the owner/operator the cost. If said owner/operator fails within 30 days to reimburse the Village such costs, the bond or cash deposit required under paragraph 7(D) below may be utilized.
- J. No tower under 150' shall be artificially lighted except to assure safety or as required by the FAA. Any tower between 150' and 200' in height shall follow safety marking and obstruction lighting as prescribed by the FAA. Security lighting around the equipment shelter is permitted.
- K. "No Trespassing" signs shall be posted around the facility with a telephone number of who to contact in the event of an emergency.
- L. Applicant will provide evidence of legal access to the tower site thereby maintaining this access regardless of other developments that may take place on the site.
- M. Any decision to deny a request to place, construct or modify a wireless telecommunications antenna and/or tower shall be in writing and supported by evidence contained in a written record of the proceedings of the Planning Commission.
- N. Underground equipment shelters are encouraged especially in non-industrial districts, and may be requested by the Planning Commission. In the event of collocation, all additional wireless telecommunications equipment shelters shall either be shared with all other providers utilizing the wireless telecommunications facility, or in the event such facility sharing is not feasible, any additional wireless telecommunications equipment shelters shall be attached to any existing shelter and shall be constructed of similar materials and utilize a design similar to any existing shelter located on such property.
- O. Any wireless telecommunications tower to be located within the Municipality shall be either a monopole or a lattice tower which does not utilize guy wires. A wireless

telecommunications tower which is supported by guy wires shall only be permitted if the applicant can prove that a monopole or lattice tower not requiring guy wires is not reasonably feasible, due to non-economic reasons, such as specific site conditions, or is required to provide wireless communications to a specific area that cannot be served by a guyless monopole or lattice tower. In the event guy wires are required to support the wireless telecommunications tower, the guy wires shall be considered part of the wireless telecommunications facility and shall meet all setback and yard requirements.

5. Wireless Telecommunications Facilities proposed for industrial and business districts and for locations on either institutional use property in a residential zone or within high tension power line corridors in a residential zone are subject to the following additional conditions:

A. Sole use on a lot - a wireless telecommunications facility is permitted as a sole use on a lot subject to the following:

(1) Yard requirements:

Tower - the minimum distance to any single-family or two-family residential use or district lot line shall be 300'.

Equipment Shelter - shall meet all minimum setbacks/yard requirements for the district.

(2) Maximum Height:

Tower - 200' (includes antenna)

Equipment Shelter - shall not exceed maximum height for buildings within the district.

(3) Maximum size of equipment shelter:

300 square feet for a single shelter or, if there is more than one, 750 total square feet.

B. Combined with another use - a wireless telecommunications facility is permitted on a property with an existing use subject to the following conditions:

(1) The existing use on the property may be any permitted use in the district or any lawful non-conforming use, and need not be affiliated with the wireless telecommunications provider. The wireless telecommunications facility will not be considered an addition to the structure or value of a non-conforming use.

(2) The wireless telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).

(3) Minimum lot area - The minimum lot area shall be the area needed to accommodate the tower (and guide wires, if used), the equipment shelter, security fencing and buffer planting.

(4) Minimum yard requirements:

Tower - the minimum distance to any single family or two family residential use or district lot line shall be 300'.

Equipment shelter - shall comply with the minimum set back requirements for the primary lot.

(5) Access - the service access to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.

(6) Maximum height:

Tower - 200' (includes antenna)

Equipment shelter - shall not exceed the maximum height for buildings within the district.

(7) Maximum size of equipment shelter:

300 square feet for a single shelter, or, if there is more than one, 750 square feet.

C. Combined with an existing structure - where possible an antenna for a wireless telecommunications facility shall be attached to an existing structure or building subject to the following conditions:

(1) Maximum height - 20' or 20% of the building height above the existing building or structure, whichever is greater.

(2) If the applicant proposes to locate the telecommunications equipment in a separate shelter (not located on, or attached to, the building), the shelter shall comply with the following:

(a) The minimum setback requirements for the subject zoning district.

(b) A buffer yard shall be planted in accordance with Section 4.C.(1).

(c) Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.

(d) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.

6. Residential District - wireless telecommunications facilities that include towers are not permitted in any one-family (R-1A, R-1B, R-1C, R-1D), multi-family (R-2), elderly assisted living (R-3) or residential neighborhood development (RN-1) with the exception of placement on any property with an institutional use or within a high tension power line corridor as described hereinabove. However, antennas attached to existing buildings or structures are permitted. In addition to placement on any property with an institutional use or within a high tension power corridor, if the appropriate conditions required herein are satisfied, a wireless telecommunications facility may be located in a residential district subject to the following conditions:

- A. General - the wireless telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance. This provision shall apply to B, C, D, and E below.
- B. Combined with a non-residential use - an antenna may be attached to a non-residential building or a structure that is a permitted use of the district; including, but not limited to, a church, a municipal and governmental building or facility, agriculture building, and a building or structure owned by a utility. The following conditions shall be met:
 - (1) Maximum height - 20' above the existing building or structure,
 - (2) If the applicant proposes to locate the telecommunications equipment in a separate shelter, the shelter shall comply with the following:
 - (a) The shelter shall comply with the minimum set back requirements for the subject zoning district.
 - (b) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.
 - (c) A buffer yard shall be planted in accordance with Section 4.C.(1).
 - (d) Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
- C. Located on a non-residential-use property - a tower to support an antenna may be constructed on a property with a non-residential use that is regulated as a conditional use within the district, including but not limited to a church, school, municipal or government building, facility or structure, and a utility use, subject to the following conditions:
 - (1) The tower shall be set back from any property line abutting a single family or a two-family residential zoned or used lot by 300'.
 - (2) The maximum height:
 - Tower - 200' (includes antenna)

Equipment shelter - shall not exceed the maximum building height for the district.

- (3) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.
- (4) Vehicular access to the tower and equipment shall, whenever feasible, be provided along the circulation driveways of the existing use.
- (5) In order to locate a telecommunications facility on a property that is vacant or with an agricultural use the tract shall be at least 2.5 acres.

D. Located in open space - a wireless telecommunications facility is permitted on land that has been established as a permanent open space, or a park subject to the following conditions:

- (1) The open space shall be owned by the municipality, county or state government, a homeowners association, charitable organization, or a private-non-profit conservation organization.

(2) Maximum height:

Tower - 200' (includes antenna)

Equipment shelter - shall not exceed the maximum building height for the district.

- (3) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.
- (4) The tower shall be set back from any single-family or two-family property line 300'.

7. Criteria for a conditional use - in order to be considered for a review, the applicant must prove that a newly-constructed tower is necessary to provide wireless communication to a specific service area and that opportunities for collocation on an existing tower is not feasible. The following steps must also be taken for the application to be considered for review in this category:

- A. The applicant shall present a landscaping plan that indicates how the wireless telecommunications facility will be screened from adjoining uses.
- B. The applicant shall demonstrate that the telecommunications tower must be located where it is proposed in order to service the applicant's service area. There shall be an explanation of why a tower and this proposed site is technically necessary.
- C. Where the telecommunications facility is located on the property with another principal use, the applicant shall present documentation that the owner of the property

has granted an easement or entered into a lease for the proposed facility and that the vehicular access is provided to the facility.

- D. As a condition of approval, the Planning Commission shall establish the amount of a bond, with a surety company approved by the Village's Solicitor, or cash deposit, in an amount to be determined by the Planning Commission which shall be intended to guarantee the cost of the removal of the wireless telecommunications facility in the event the facility is declared abandoned by the Zoning Inspector pursuant to paragraph 4(I) herein. (Ord. 1997-29)

CHAPTER 8
PARKING & LOADING REGULATIONS

8.00 INTENT - Off-street parking and loading regulations are herein established to achieve among others, the following purposes:

- (a) To relieve congestion on streets so that they can be utilized fully for the movement of traffic.
- (b) To promote the safety and convenience of owners, occupants, employees, customers or tenants by locating parking areas so as to lessen vehicle movements in the areas of congestion.
- (c) To promote the general convenience, welfare, and prosperity of residential, business and industrial uses which depend upon off-street parking and loading facilities.

8.01 REGULATIONS - Required off-street parking and loading facilities shall be provided in each zoning district in accordance with the regulations found in the applicable chapter of the Zoning Code for each such district, all state and village building code requirements, and in accordance with the following regulations: (Ord. 2001-19).

8.02 IMPROVEMENTS - Off-street parking and loading facilities shall be improved according to the following regulations:

(a) Access Drives: The location and width of entrance and exit drives to parking and loading facilities shall be planned to minimize interference with the use of nearby property and with pedestrian and vehicular traffic on nearby streets. Whenever possible, the center line of access drives on the frontage street shall be at least 50 feet from the right-of-way line of the nearest intersecting street and spaced at not less than 75 feet intervals measured from the center line of the drives. Entrances and exits shall be limited to three (3) lanes. The paved width of such entrances and exits shall be as follows:

<u>Number of Lanes</u>	<u>Width (Feet)</u>	
	<u>Minimum</u>	<u>Maximum</u>
One	12'	14'
Two	20'	24'
Three	30'	36'

The paved radius of the edge of aprons onto streets shall be at least 20 feet so that a car entering from the curb lane shall be perpendicular to the setback line at the drive without obstructing vehicles in other traffic lanes.

(b) Pavement: Parking and loading areas and access drives shall have an asphalt, concrete or other similar hard surface approved by the Engineer. Such areas and drives shall be graded to provide for adequate drainage. Appropriate bumper guards and curbs shall be provided in order to define parking spaces and paved areas, and to prevent vehicles from projecting into required yards.

(c) Illumination: Parking and loading areas shall be illuminated whenever necessary to protect the public safety. Such illumination shall comply with applicable development regulations of this Code and be located so that light sources are shielded from adjoining property and streets. The source of illumination shall be designed to provide indirect lighting and thereby avoid excessive brightness, glare or hazard to pedestrians and traffic.

CHAPTER 9
SIGN REGULATIONS

9.00 INTENT - Sign regulations are herein established to achieve among others, the following purposes:

(a) To promote attractive residential districts by permitting only nameplates, bulletin boards and signs related to the development, rental or sale of residential properties.

(b) To provide for reasonable advertisement in business and industrial districts by relating the content, design and location of signs to the type and size of establishment.

(c) To control the design of signs so that their appearance will be aesthetically harmonious with their surroundings and develop an overall plan for the area. (Ord. 2001-19).

(d) Discontinuance of use of nonconforming signs. A non-conforming sign, the use of which is discontinued for a period of thirty (30) days, shall thereafter conform to the regulations of the Zoning Code.

(e) Change of use of nonconforming signs. Where the business, use or identity associated with the nonconforming sign at the time of the adoption of this Ordinance, thereafter terminates or changes, such termination or change of use shall require termination of the nonconforming sign, and the use of such sign shall thereafter conform to the regulations of the Zoning Code.

(f) Restoration of damaged nonconforming signs. A nonconforming sign which is destroyed or damaged by fire or other cause to the extent that the cost of restoration will exceed sixty percent (60%) of the original cost of such sign, shall not be restored unless it is made to conform to all the regulations of the Zoning Code, or any subsequent amendment thereto. In the event that such damage or destruction is less than sixty percent (60%) of the original cost of such sign, no repairs or construction shall be made unless such restoration is started within six months from the date of the partial destruction and is diligently pursued to completion.

9.01 TYPES OF SIGNS - Signs may be classified according to either content or design. Signs classified according to contents are to be used as defined in Chapter 2 and as regulated in Chapters 4, 5, and 6 and are as follows:

1. Nameplate
2. Bulletin Board
3. Real Estate & Development
4. Business & Industrial
5. General Advertising
6. Directional
7. Political

9.02 REGULATION AND MAINTENANCE OF SIGNS - All signs and sign structures shall be maintained in a safe and attractive condition. Signs which no longer serve the purpose for which they were intended, or which have been abandoned or are not maintained in accordance with this

Code and other applicable regulations of the Municipality shall be removed by the latest permit holder or by the Municipality at the expense of such permit holder. Unless otherwise indicated, each permitted sign shall be placed on the lot to which it directs attention. Signs which might be identified as traffic signals or other safety devices shall not be permitted. No blinking, flashing, moving, neon, neon type, or other signs shall be permitted in any district. (Ord. 2001-19).

9.03 EXEMPTION FROM REGULATION - The Code shall not apply to Municipal traffic signs or other municipal safety signs within the Municipality, the display of Municipal public notices or other Municipal sign, posters and emblems.

9.04 DESIGN STANDARDS - Signs, as permitted in all use districts, shall be designed to be compatible in character and style with regard to materials, color and size of the building, other signs designed or located on the same building, and other signs adjoining buildings in order to produce an overall unified effect, and in accordance with the standards set forth in this Section. Any new signs to be displayed after the effective date of this Section shall be reviewed with respect to each of the provisions of this Section and shall require approval by the Architectural Review Board.

(a) Continuity. Signs shall be considered in a relationship to their surrounding environment and, if seen in series, shall exhibit a continuity of design. (Ord. 2001-19).

(b) Style and Color. The style of a sign shall be generally consistent throughout the particular building or block involved; the color of signs shall be a component of the color of the building facade and the total number of colors on a sign shall be limited to four (4).

(c) Lettering. The lettering on a sign shall be large enough to be easily read, but not overly large or out of scale with the building upon which it is placed. An excessive amount of information on signs, where visual clutter could create a potential safety hazard to motorists or pedestrians, shall not be permitted.

(d) Materials. Signs shall be fabricated on and of materials, which are of good quality, good durability and complimentary to the building of which they become part or serve.

CHAPTER 10
DEVELOPMENT REGULATIONS

10.00 INTENT - Development regulations are herein established to achieve among others, the following purposes:

- (a) To assure the most efficient and attractive utilization of sites in relation to surrounding property.
- (b) To protect the environment by controlling the type and extent of grading, paving, landscaping, and other site development activities and to protect the groundwater within and surrounding the municipality.
- (c) To protect and preserve the architectural character of the Municipality.

10.01 REGULATIONS - Any conditional, multi-family, residential neighborhood, private cluster residential development, elderly assisted living, business or industrial structure or use proposed after the effective date of this Code, shall comply with the following development standards and criteria given in this chapter. (Amended by Ord. 1992-9, passed 02-24-92)

(a) **Circulation:** The development shall result in a proper relationship between streets, access drives and parking and loading areas to encourage pedestrian and vehicular traffic safety. On-site circulation shall be designed to make possible adequate fire and police protection.

(b) **Surrounding Area:** All development features, including structures, open spaces, access drives, parking and loading areas, utilities, sewage systems, water wells, and signs shall be located and related to minimize the possibility of any adverse effect on adjacent development.

(c) **Screening:** The development shall include adequate provision for screening of parking areas, service area and active recreation areas from surrounding properties by landscaping, walls approved by the Commission or fences in accordance with this Code and Municipal laws. The Commission shall require all multi-family, private cluster residential development, elderly assisted living, non-residential or non-agricultural uses that abut residential districts to provide screening both visual and auditory to be implemented in a manner approved by the Commission. (Amended by Ord. 1992-9, passed 2-24-92)

(d) **Grading:** Grading and surface drainage provisions shall be reviewed and approved by the Engineer. The proposed development shall take advantage of natural features which will minimize construction of drainage facilities, grading and the removal of trees. Top soil shall not be removed from the site without Commission approval. Top soil removed shall be in compliance with Municipal ordinances and only after approval of the Engineer. If the property is located in a Flood Plain Zone, the applicant shall submit plans to eliminate potential flooding problems and no development shall occur until after the Planning Commission is satisfied that the development shall be constructed or used in such a manner as to avoid flooding in a structure.

(e) **Paving:** All private streets, access drives and parking and loading areas shall be built according to plans approved by the Engineer and in accordance with the regulations set forth in

Chapter 8 of this Code, and the regulations of the appropriate zoning district, except that the Planning Commission may waive the requirement for a hard surface for parking and loading spaces where a concomitant benefit to the health, safety, morals and general welfare of the Municipality is found and unusual circumstances exist authorizing a waiver of such regulations.

(f) Privacy: Maximum privacy for multifamily dwellings and surrounding residential properties shall be provided through appropriate design and the use of proper materials and landscaping. Visual privacy shall be provided through structural screening and landscaping. Auditory privacy in multifamily dwellings shall be provided through soundproofing. A landscaping plan shall be submitted and approved by the Planning Commission and the applicant shall provide a plan providing for visual and auditory screening where the area to be developed abuts any R-1 single family residential district and the development is not consisting of R-1, single family development.

(g) Architecture: The architectural design of structures shall be developed with consideration given to the relationship of adjacent development in terms of height, mass, texture, materials, line, pattern and character. The location and placement of structures shall be developed with consideration given to minimizing removal of trees and change of topography. In multi-family developments television and other antennas shall be centralized. Each multifamily structure shall have one central antenna or receiver for all units in said structure. The architectural design of all structures shall be in accordance with standards established by municipal ordinance, rule or regulation.

(h) Parking & Loading: Off-street parking and loading facilities shall be provided according to off-street parking and loading regulations of this Code. In large parking areas, visual relief shall be provided through the use of tree planted and landscaped dividers, islands and walkways. In B-4 Districts parking areas shall be screened with landscaping by providing year-round cover at a height of at least five feet at planting, on all sides adjacent to any residential district. The location and configuration of parking areas shall be subject to the approval of the Commission.

(i) Signs: Signs shall be designed as an integral part of the proposed development, and conform to the sign regulations of this Code. Where new single family, private cluster residential development, or multi-family developments are to occur, and promotional signs are to be used as a part of the project, the location, size and other pertinent matters subject to regulation in this Code shall be submitted to the Commission and approved by the Commission simultaneously with review and approval of other developmental regulations. (Amended by Ord. 1992-9, passed 2-24-92)

(j) Water Supply: In addition to the regulations dealing with property located in a groundwater sensitive zone, the Commission shall require proof of adequate potable water for any private cluster residential development, multi-family, elderly assisted living, industrial, business or conditional use to service employees, tenants, owners, expected customers, and any use engaged in at the premises which employs water. (Amended by Ord. 1992-9, passed 02-24-92)

10.02 REGULATION - Any business or industrial development proposed for more than one structure on site shall be entitled, upon approval of the Commission, to develop such uses considering off-site premises under the following conditions as follows:

(a) Maximum lot coverage may include contiguous land not owned by the developer acceptable to the Commission so long as said property is subject to such easements and restrictions as are satisfactory to the Commission and which easements and restrictions permit developer to utilize such additional land for parking, loading, common area, circulation, screening, and other features such as grading and site development, where such rights granted to the developer by the off-site property owners are of such length and grant such rights as are necessary to satisfy the Commission that they may be treated as part of the development for the purposes as set forth herein. Contiguous, for the purposes of this section shall mean a tract of land contiguous for a minimum of thirty (30) linear feet, located on the same side of the street and located in the same zoning district.

(b) When such contiguous off-site land is utilized as contemplated in this section, the sideyard regulations of Sections 5.02 and 6.02 shall not apply to the lot between the land owned by developer and the contiguous off-site land utilized in accordance with this Section. However, the sideyards contiguous to land not part of the on or off-site development shall be subject to sideyard regulations.

(c) Any off-site premises being utilized by the developer shall be available to the developer and the Village for the placement of above and below ground utilities, pipes, culverts, lines, and facilities and improvements necessary for providing utility service as well as for the placement of walkways, paths, parks, common areas, landscape areas, parking areas, driveways, lighting poles, signs, and other similar improvements, installations and appurtenances thereto for the use and benefit of the developer and the Village as well as for removal of trees and other vegetation on the premises as well as to alter the contour of land and to re-grade or drain said premises as well as to create depressions, mounds, culverts, and to alter water courses and to allow the developer to utilize said premises in any other manner necessary in order to comply with ordinances, regulations, rules, and laws of the State of Ohio and the United States of America. Any easement or deed restriction shall provide that they shall inure to the benefit of the developer and that the Village of South Russell and its successors and assigns shall have standing to enforce the rights of the parties to such agreements. The grantor or deed restriction declarant shall agree that said easement or restriction shall be a covenant running with the land and the premises subject to the easement or restriction shall not be used for any purpose inconsistent with the grant to the developer nor shall the same be used in the calculation of density on the remaining premises owned by the grantor or declarant. No additional use of the premises subject to the easement or deed restrictions shall be permitted at any time during which the premises are being utilized for off-site development or are being calculated for density for any off-site development. Such agreements shall not be modified without the consent of the Village of South Russell.

CHAPTER 11
PERFORMANCE REGULATIONS

11.00 INTENT - Performance regulations are herein established to achieve among others, the following purposes:

(a) To regulate the degree of activity resulting from the use of a structure or land which would otherwise have an injurious effect on surrounding property.

(b) To protect the environment by limiting the emission of smoke, noise, odor and other pollutants.

11.01 REGULATIONS - Any structure or use established after the effective date of this Code shall comply with the following performance standards and criteria. Uses already established shall not be altered, added to or otherwise modified so as to conflict with, or further conflict with the performance standards. Statements or deed restrictions may be required by the Commission from the owner that such uses comply or will comply with the performance standards. In cases of doubt, the Municipality shall select and arrange for an independent survey by a professional Engineer or other appropriate consultant. The cost of such services shall be paid by the owner.

(a) Enclosed Buildings: All permitted main and accessory uses shall be conducted wholly within enclosed buildings including storage of mobile equipment and vehicles, except that outdoor overnight parking in required off-street spaces, shall be permitted.

(b) Fire & Explosive Hazards:

1. The storage, handling and use of flammable or explosive materials shall be permitted only in structures having noncombustible exterior walls and roof assembly. (Ord. 2001-19).
2. All activities concerned with flammable or explosive materials shall be provided with adequate safety and protective devices against hazards of fire and explosion as well as with adequate fire-fighting and suppression equipment and devices standard to the operation involved.
3. All structures shall be accessible to fire-fighting equipment and shall comply with other Municipality, County and State law.

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

(d) Odorous Matter: The emission of odorous matter in such quantities as to produce a public nuisance or hazard shall not be permitted.

(e) Toxic or Noxious Matter: The emission of toxic, noxious or corrosive substances, fumes or gases which would be injurious to property, vegetation, animals, or human health shall not be permitted.

(f) Noise: The sound level of any activity on a lot shall not exceed the average intensity of street traffic noise in the adjacent residential district, and no sound shall be permitted which is objectionable due to intermittence, beat, frequency or shrillness. (Ord. 2001-19).

(g) Glare: Glare from sources of illumination or materials beyond the lot occupied by the use shall not be permitted.

(h) Vibration: Perceptible vibrations beyond the lot occupied by the use shall not be permitted.

(i) Radioactive or Electrical Disturbances: Radioactive electrical disturbances which affect any form of life or equipment beyond the lot occupied by the use shall not be permitted.

(j) Incineration Facilities: Incineration facilities which emit smoke or odor shall be located within the main building. All incineration shall conform to the most current regulations of the National Board of Fire Underwriters and the Municipal Fire and Building Codes.

(k) Waste Materials: Liquid and solid wastes shall not be discharged into an open reservoir, surface or ground water body, or sanitary sewer, except as may be provided by Municipal, County and State law. No garbage, rubbish, waste matter or empty containers shall be permitted to be stored outside structures without appropriate screening. A separate storm sewer shall be provided to receive storm water only.

CHAPTER 12

NON-CONFORMING USE REGULATIONS

12.00 INTENT - Within districts herein established, uses, structures and lots which were lawful prior to the passage of this Code, (or lawful prior to the passage of an amendment or addition to those), but which would be prohibited by this Code, are considered to be non-conforming uses. It is the intent of this Code to permit such uses to continue until they are removed or abandoned, although they are considered to be incompatible with the permitted uses in the districts established by the Code. It is further the intent that nonconforming uses shall not be enlarged upon, expanded or extended; that non-conforming uses be changed only to a more restrictive use; and that the rebuilding of nonconforming structures damaged in excess of 50 percent of their reproduction value shall conform with this Code.

12.01 NONCONFORMING USES - A use existing lawfully on the effective date of this Code which does not conform to this Code is a non-conforming use and may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) Change of Use: A nonconforming use may only be changed to a conforming use, or to a use permitted in a more restricted district if approved by the Commission. Thereafter it shall not be changed back to the former nonconforming use. For this purpose, the districts shall be considered as listed in order of restrictiveness, from most to least restrictive, as follows:

- (1) R-1-D
- (2) R-1-C
- (3) R-1-B
- (4) R-1-A
- (5) RN-1
- (6) B-2
- (7) B-1
- (8) I-1

(b) Expansion of Use: A nonconforming use or part of a structure or lot may only be expanded or extended throughout those parts which were manifestly arranged or designed for such use on the effective date of this Code, and no such use shall be extended so as to occupy any additional land.

(c) Discontinuance of Use: If a nonconforming use is discontinued for a continuous period of one (1) year, any future use shall be in conformity with the use regulations of the district in which such use is located.

(d) Nonconforming Signs: See Section 9.00(d). (Ord. 2001-19).

(e) Nonconforming Parking Facilities: A nonconforming use which does not conform to the off-street parking or loading regulations of this Code may be occupied by the existing use without such parking and loading facilities being provided. If an existing structure is altered so that there is an increase in the number of dwelling units, seating capacity or floor area, or if the use is changed to a use requiring more off-street spaces, no Zoning or Occupancy Permit shall be issued

for such alteration until off-street parking and loading facilities have been provided which are at least equal to the number of spaces required by this Code for the entire structure or use.

(f) Performance Standards: A use which is nonconforming with respect to one or more of the performance standards specified in this Code shall not be required to conform therewith except at such time that the structure or use is changed or expanded.

12.02 NONCONFORMING STRUCTURES - A structure existing lawfully on the effective date of this Code which does not conform to the area, yard or height regulations of the district in which it is located is a lawful nonconforming structure. Such structures may continue to be occupied so long as they remain otherwise lawful, subject to the following provisions:

(a) Maintenance & Repair: A nonconforming structure may continue to be used, maintained and repaired, provided no structural parts are replaced except when required by law to restore the structure to a safe condition, or make it conform to the regulations of the district in which it is located.

(b) Additions: A nonconforming structure shall not be altered, added to or enlarged unless the additions and original structure are made to conform to the area, width, yard and height requirements of the district in which it is located however, nonconforming dwellings may be altered, modernized or enlarged provided they comply with the existing width, yard, and height regulations to the extent possible. If the enlargement or alteration cannot comply with present regulations, a zoning permit may be issued if enlargement or alteration complies with zoning regulations in effect just prior to the Zoning Amendment making such dwelling, located in a residential zone, nonconforming and appropriate proof of inability to comply and the date said dwelling was constructed is presented to the Zoning Inspector. If said structure was constructed prior to the enactment of any zoning ordinance within the Village of South Russell, or prior to the incorporation of the Village of South Russell, then any alteration, addition, enlargement, or any other change shall comply with the zoning regulation in effect just prior to the amendment making such dwelling nonconforming or if such compliance is not possible, such enlargement or alteration or addition or any other change shall not be allowed by the Zoning inspector and the applicant must seek a variance from the Zoning Board of Appeals. In the event, however, that an alteration, addition, enlargement or any other change of a structure constructed prior to the enactment of zoning can comply with present regulations, said applicant shall conform where possible to present regulations.

(c) Moving: A nonconforming structure shall not be moved in whole or in part to any other location on the lot or other premises, unless every portion of the structure so moved conforms to the regulations of the district into which it is moved.

(d) Damaged Structure: If a nonconforming structure is damaged or destroyed to the extent of 50 percent or less of its reproduction value, those portions so destroyed or damaged may be restored but to not more than its former size, provided such restoration is completed within a period of one (1) year after the date of damage or destruction. If such structure is occupied by a nonconforming use prior to damage, such use may be continued. If a nonconforming structure is damaged or destroyed more than 50 percent of its reproduction value, no repairing or reconstruction shall be made unless every portion of the structure conforms to the regulations of the district in which it is located, and unless the structure is thereafter occupied by a conforming use.

Determination of reproduction value shall be made by three (3) practicing construction contractors: one appointed by the owner, one by the Municipality and one selected by mutual consent of the two parties.

12.03 NONCONFORMING LOTS - The use of a vacant lot which does not conform to this Code may continue so long as its use remains otherwise lawful, subject to the following provisions:

1. Expansion of Use: The nonconforming use of a lot, or part thereof, shall not be expanded or extended onto other parts of the lot.

2. Discontinuance of Use: If the nonconforming use of a lot, or part thereof, is discontinued for a continuous period of one (1) year, any future use of such lot, or part thereof, shall conform to the use regulations of the district in which it is located.

3. Insufficient Size: A lot of record, located in a residential district, nonconforming due to the enactment of a zoning ordinance or amendment to a zoning ordinance, shall be permitted to develop in accordance with the zoning regulations in effect just prior to the amendment which changes said lot into a nonconforming lot, to the extent that the size or shape of said lot prevents development of the lot in accordance with the lot area, width, density, front yard, side yard, rear yard, or maximum height regulations in effect at the time development is proposed. To the extent said lot can be developed in accordance with existing zoning regulations, the present regulations shall prevail over prior enactments. The Zoning Inspector is hereby authorized to issue a zoning permit and the Planning Commission is hereby authorized to grant developmental approval upon appropriate proof of the inability of a lot to comply with present regulations and the date said lot was recorded. Any lot of record existing prior to the enactment of any zoning ordinance within the Village of South Russell or prior to the amendment which changes said lot into a nonconforming lot, and where such compliance with this section is not possible, such development of the lot shall not be allowed by the Zoning Inspector and the applicant must seek a variance from the Zoning Board of Appeals. In the event, however, said lot can be developed to comply with present regulations, said applicant shall conform where possible to present regulations.

SCHEDULE 1 - REQUIRED FEES & DEPOSITS

FEES:

Zoning Permits:

Fencing of 25 lineal feet or less of connected fencing or 50 lineal feet or less of total fencing on a lot.	No fee
Decks of 200 square foot area or less, no roof or sides	No fee
Detached accessory structures at 200 square feet or less	No fee
A new residence, condominium, business use or industrial use	\$ 75.00
All other permits	\$ 25.00

Occupancy Permits: No Fee

DEPOSITS:

Conditional Use Permits:

Deposit for all applications except gas and oil wells which are governed by Section 7.02 \$500.00

Development Approval:

Deposit for all applications \$250.00

Minor Subdivision \$100.00

Major Subdivision - See Subdivision Regulations

Amendments: \$1,000.00

Appeals: \$500.00

All required deposits include a \$100.00 non-returnable fee. No deposit shall be required for applications initiated by the municipality.