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VILLAGE OF

MARENGO

**ZONING AND SUBDIVISION
REGULATIONS**

2010-2

ADOPTED - May 13, 2010

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ARTICLE I

PURPOSE AND SCOPE

PREAMBLE: This Resolution is enacted for the purpose of promoting public health, safety, morals, comfort, and general welfare; to conserve and protect property and property values; to secure the appropriate use of land, and to facilitate adequate and economical provisions for public improvements, all in accordance with a comprehensive plan for the desirable future development of Marengo, Ohio, and to provide a method of administration and to prescribe penalties for violation of provisions hereafter described all as authorized by the Ohio Revised Code.

ARTICLE II

TITLE

Village of Marengo, Morrow Township, Morrow County, Ohio, Zoning Resolution:

This Resolution shall be known and may be cited and referred to as the Village of Marengo, Morrow County, Ohio, Zoning Resolution, 2010-2.

ARTICLE III

INTERPRETATION OF STANDARDS

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

ARTICLE IV

DEFINITIONS

INTERPRETATION: For the purpose of this resolution certain terms or words used herein shall be interpreted as follows:

All words used in the present tense include the future tense. All words in the singular include plural and all words in the plural include the singular. The word "shall" is mandatory and not directory. The words "used" shall be deemed to include "designed, intended, or arranged to be used."

Accessory Use or Building: A. use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Agriculture: The use of land for agriculture purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operations of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above use shall not include the commercial feeding of garbage or official to swine or other animals.

Alley or Lane: A public or private way not more than 20 feet wide affording only secondary means of access to abutting property.

Apartment House: See Dwelling, Multi—Family.

Automotive or trailer sales area: An open area, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

Automotive service station or filling station: A place where gasoline, kerosene or any other motor fuel or lubrication oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including greasing and oiling on the premises.

Automobile Wrecking: The dismantling or disassembly of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Basement: A story whose floor line is below grade at any entrance or exit and whose ceiling is not more than 5 feet above grade at any such entrance or exit.

Beginning of Construction: The incorporation of labor and material within the walls of the building or buildings; the incorporation of labor and materials at the site, lot or parcel where a building is to be constructed; the incorporation of labor and materials where land is to be used for purposes other than construction of a building; the moving of dirt which alters the natural topography and drainage patterns of the area.

Board: The Board of Zoning Appeals of the Village.

Board of Lodging House: A dwelling or part thereof where meals and/or lodging are provided for three or more persons for compensation by previous arrangement, but not transients.

Building: Any structure constructed or used for residential, business, industrial or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, billboards, signs and similar structure, whether stationary or movable.

Cellar: The portion of a building between floor and ceiling partly underground, but having half or more than half of its clear height below the adjoining finished grade.

Cemetery: Land use or intended to be used for the burial of the human dead and dedicated for cemetery purposes.

Clinic: A clinic is a place which provides a range of services by a group of licensed practitioners, their associate and assistant(s), including the care, diagnosis and treatment of those who are sick, ailing, infirm and/or injured persons, and include the care of those who are in need of medical, surgical or dental attention, but who are not provided with board or room nor kept overnight on the premises.

Club: A non-profit association of persons who are bonafide members, paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to render a service customarily on as a commercial enterprise.

Commission: The Village Zoning Commission.

Display Sign: A structure that is arranged, intended, or designed or used as an advertisement, announcement, or direction, including a sign, sign screen, billboard and advertising device of any kind.

District: A portion of the territory of the Village within which certain uniform regulations and requirements or various combinations thereof apply.

Dwelling: A permanent building used primarily for human habitation but not including facilities for the housing of transient residents nor to include mobile homes..

Dwelling, Single Family: A permanent building separate and free standing in itself providing living accommodations for one family.

Dwelling, Two—Family: A permanent building designed exclusively for occupancy by two families.

Dwelling, Multi—Family: A permanent building or portion thereof, providing separate living accommodations for three or more families.

Dwelling Unit: A room or a suite of two or more rooms, designed for or used by one family for living, and sleeping purposes, and having only one kitchen or kitchenette.

Dwelling Group: A group of two or more detached dwellings located on a parcel of land in one ownership and having any one yard or court in common.

Dwelling, Mobile Home: A detached dwelling unit designed to be repeatedly transported on highways, and when arriving at the lot for placement involving only minor and incidental parking, assembling, and connection operations; but which involves no substantial reconstruction which would render the unit unfit as a conveyance on the highway. The unit shall be considered as a real property if such reconstruction is undertaken.

Essential Services: The erection, construction, alteration, or maintenance, by public utilities or municipal or governmental agencies of underground gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains, sewer pipes, traffic signals, hydrants, or other similar equipment and accessories in connection, therewith, which are reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare, but not including building.

Family: One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption, or marriage, no such family shall contain over five persons.

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

Garage, Private: A detached accessory building or a portion of the principal building used only for the storage of self-propelled passenger vehicles or trailers by the families resident upon the premises.

Garage, Public: A space or structure for the storage, sale, hire care, repair, or refinishing of self-propelled vehicles.

Home Occupation: Is an occupation conducted entirely within a dwelling unit and carried on by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not involve the extension or modification of said dwelling which will alter its outward appearance as a dwelling, and not more than twenty—five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

Hospital: A building or a portion thereof used for the accommodation of sick, injured, or infirm persons, including sanitarium, sanatoria.

Industry: Storage, repair, manufacture, preparation or treatment of any article, substance or commodity.

Junk Yard: Any open area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, or handled, including auto—wrecking yards, house wrecking yards, used lumber yards and places or yards, for storage and equipment.

Kennel: Any structure or premises on which five or more dogs over five (5) months of age are kept.

Lot: A piece, parcel or plot of land, occupied or to be occupied one principal building and its accessory buildings including the open spaces required under this Resolution.

Mineral: Any chemical compound occurring naturally as a product of inorganic processes.

Mobile Home: A structure designed to be used for human habitation, carrying or storage of persons or property, not having a permanent foundation, being able to be easily equipped with wheels or other devices to be transported from place to place.

Motel or Motor Hotel: A series of attached, semi-attached, detached sleeping or living units, for the accommodation of automobile transient guests, said units having convenient access to off-street parking spaces, for the exclusive use of the guests or occupants.

Non-Conforming Use: A use of building of land lawful at the time of enactment of this Resolution that does not conform with the "permanent use" provisions of this Resolution.

Recreational Facilities: Any instrumentality provided by the state, church or private enterprise, for the purpose of rest and relaxation mental or physical refreshment, or any other activity relating to fun and games.

Sign — Area of: The total exterior surface computed in square feet of a sign having but one exposed exterior surface, ½ the total of the exposed exterior surface computed in square feet of a sign having more than one such surface.

Stable — Commercial: A stable for horses, donkeys, mules or ponies, which are let, hired, used or boarded on a commercial basis and for compensation.

Stable — Private: An accessory building for the keeping of horses, donkeys, mules or ponies owned by the occupant of the premises and not kept for the remuneration, hire or sale.

Standard Equipment: Criterion for the control of type and placing of industrial equipment:

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

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

Street: Any public or private way dedicated to public travel, 50 feet or more in width. The word "street" shall include the words, "roads", "highway", and "thoroughfare".

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

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

Tourist Home: A building or part thereof, other than a hotel, boarding house, lodging house or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.

Thoroughfare, primary or secondary: An officially designated federal or state numbered highway or county or other road or street designated as a primary thoroughfare on an official Thoroughfare Plan, or a county or other road or street designated as a secondary thoroughfare on said Plan, respectively.

Use: The purpose or activity for which a building, structure, or land is occupied or maintained, or used.

Variance: A variance is a relaxation of the terms of the zoning Resolution where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Resolution would result in unnecessary and undue hardship. As used in this Resolution, a variance is authorized only for height, area, and size of structure or size of yards and open spaces, establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

Yard: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward; in any yard, subject to height limitations and requirements limiting obstruction of visibility.

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

Yard, Rear: A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

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

Zoning Certificate: A document issued by the Zoning or Building Inspector authorizing buildings, structures, or uses consistent with the terms of the Zoning Resolution and for the purpose of carrying out and enforcing its provisions.

Zoning Inspector: The Zoning Inspector of the Village, or his authorized representative.

Zoning Map: The districts and boundaries thereof are established shown on the Zoning Map, which map, together with all notations, thereon, shall be part of these Regulation. The Zoning Map, property attested, shall be and remain on file in the office of the Village Clerk.

ARTICLE V

DISTRICTS AND GENERAL PROVISIONS

5.0 Districts: The Village is hereby divided into 5 districts known as:

- B-1 General Business District
- M-1 General Manufacturing District
- R-1 Single Family Residence District
- P-1 Public Use District

5.1 Zoning Map: The districts and boundaries thereof are established is shown on the Zoning Map, which map, together with all notations, references, data, district boundaries and other information shown thereon, shall be part of these Regulations. The Zoning Map, properly attested, shall be and remain on file in the office of the Village Clerk.

5.2 District Boundaries: The district boundary lines on said map are intended to follow either streets or alleys or lot lines; and, where the districts designated on the Map are bounded approximately by such street, alley or lot lines, the street or alley or lot line shall be construed to be the boundary of the district, unless such is otherwise indicated on the Map. In case of subdivided property, the district boundary lines shall be determined by the use of the scale appearing on the Zoning Map or by dimensions.

5.3 Compliance with Regulations: No building shall be erected, converted, or altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located, except as hereinafter provided. No building shall be erected, enlarged or altered except in conformity with the area regulations, minimum yard requirements, and minimum off-street parking space requirements of this Resolution for the district in which such building is located.

5.4 Rear Dwelling: No building in the rear of a principal building on the same lot shall be used for residential purposes unless it conforms to all the yard and other open space and off-street parking requirements. For the purpose of determining the front yard in such cases, the rear line of the required rear yard for the principal building in front shall be considered the front lot line for the building in the rear. In addition, there must be provided for any such dwelling, an unoccupied and unobstructed accessway not less than 40 feet wide, to a public street for each dwelling unit in such dwelling, or one not less than 50 feet for three or more dwelling units.

5.5 Street Frontage Required: Except as permitted by other provisions of these regulations, no lot shall contain any building used in whole or part for residential purposes unless such lot abuts for at least 60 feet on a street; and there shall be not more than one single—family dwelling for such frontage.

5.6 Traffic Visibility Across Corner Lots: In R-1 District on any corner lot, no fence, structure or planting shall be erected or maintained within 30 feet of the corner (the point of intersection of the right-of-way lines), which interferes with traffic visibility across the corner.

5.7 Off-Street Parking and Loading: In any district spaces for off-street parking and for off-street loading shall be provided in accordance with the provisions of Article 9.7.

5.8 Essential Services: Essential services shall be permitted as authorized and regulated by law and other resolutions of the Village, it being the intention hereof to exempt such essential services from the application of these regulations.

5.9 Unsafe Buildings: Nothing in these regulations shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by proper authority.

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

5.11 Trailers Prohibited-Except: A mobile home, garage, basement or temporary structure maybe temporarily used as a residence on a lot while a dwelling is being constructed thereon, but such use shall not be continued for more than 18 months. A separate zoning certificate shall be required for the use of a temporary dwelling quarters.

5.12 Trailers — Visitors: Not more than one mobile home may be temporarily used as a residence by a visitor on occupied property owned, leased, or rented by a resident of the Village for a period of 30 days, provided that:

1. All provisions of the Morrow County Board of Health are complied with.
2. A fee of \$2.00 shall be paid to the Zoning Inspector who may issue a "Temporary Visitors Zoning Certificate" after a period of 30 days, subject to renewal by the Zoning Commission.

5.13 Territory Not Included - Annexations: In every case where territory has not be specifically included within a district or where a territory becomes a part of the incorporated area of the Village, such territory shall automatically be classified as a "R-1" District until otherwise classified.

5.14 Accessory Buildings in R-1 District: Accessory buildings shall be distant at least 6 feet from any dwelling situated on the same lot unless an integrated part thereof; at least 6 feet from any other accessory building and at least 3 feet from any lot line of adjoining lots which are within an R District.

5.15 No Certificate of Occupancy shall be issued by the Zoning Inspector until the applicant has displayed a permit for installation of sewage disposal and/or water supply systems. The Zoning Inspector shall record the number of such permits on the Zoning Permit or Certificate of Occupancy.

ARTICLE VI

NONCONFORMING USES OF BUILDINGS

6.0 Existing Nonconforming Uses — Continuation: Except as hereinafter specified, the lawful use of a building or premises existing at the time of the adoption or amendment of this Resolution may be continued although such use, building or structure does not conform with the provisions of this Resolution for the district in which it is located.

6.1 NONCONFORMING USES OF BUILDINGS-ENLARGEMENT, SUBSTITUTIONS, ETC.:

No existing building or premises devoted to a use not permitted by this Resolution in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed, substituted or structurally altered, unless approved by the Board and except as follows:

6.1a Substitution: When authorized by the Board, the substitution for a nonconforming use of another not more objectionable nonconforming use.

6.1b Nonconforming Use Made to Conform: Whenever a non-conforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

6.2 Discontinuance of a Use: No building, structure, or premises where a nonconforming use has been discontinued for a period of twenty four (24) months or more shall again be put to a nonconforming use.

6.3 Nonconformity — Performance Standards: All uses nonconforming at the time of adoption of this Resolution, by reason of noncompliance with the provisions of this ordinance may continue, but no enlargements of use, or modifications is permitted outside provisions referenced in this section.

6.4 Repairs and Alterations: Repairs and maintenance work as required to keep it in sound condition may be made to a nonconforming building or structure.

6.5 Replacing Damaged Building: Any nonconforming building or structure, or one or more of a group of nonconforming buildings or structures related to one industry and under one ownership, which has been or may be damaged by fire, flood, explosion, earthquake, war, riot, or act of God, may be reconstructed and used as before, if it be done within twelve (12) months of such calamity, on the same plan as the original.

ARTICLE VII

R-1 RESIDENCE DISTRICT

7.0 Purpose: The purpose of the Residence District is to provide an area for residential uses and those public and semi—public uses normally considered an integral part or normally considered an integral part of the residential neighborhood they serve.

7.1 Uses Permitted in the R—1 District

1. One and Two family dwellings, home occupations.
2. Light agricultural uses including nurseries and raising of farm products (not to include livestock). Seasonal products may be sold on the premises.
3. Churches, schools, libraries, museums, and art galleries; parks, playgrounds~community centers, cemeteries, public services, and utility office buildings.
4. Accessory building and uses.
5. Unlighted real estate signs, nonconforming business use signs, and public building or church sign or bulletin boards pertaining to the property on which they are placed and not having over 6 feet of sign area.

7.2 Conditional Uses in the R—1 District (As approved by the Board)

1. Professional and business offices.
2. Mobile homes.

7.3 Required Lot Area and Lot Width in the R—1 District

Each dwelling shall be located on a lot having an area of not less than 7,200 square feet and a lot width on not less than 60 feet at the building line, except as hereinafter modified. The depth of the lot shall not exceed three (3) times the lot width.

7.4 Required Floor Area in the R-1 District

Any building intended in whole or part for residential purposes shall provide a minimum floor area as hereinafter specified.

7.4a a. Single-family dwelling unit size:

With Full Basement 1000 square feet

Without Basement 1000 square feet

7.5 Height Regulations in the R-1 District

No residential dwelling shall exceed 2 stories or 35 feet in height.

7.6 Required Yard in the R-1 District

All structures shall have the following minimum yard spaces:

Front Yard	—	25 feet
Side Yard	—	10 feet (each side)
Rear Yard	—	15 feet

Corner lots shall provide the minimum front yard requirements in each street side of the lot.

ARTICLE VIII

B-1 PROVISIONS GOVERNING COMMERCIAL DISTRICTS

8.0 Purpose: The purpose of the B-1 General Business District is to provide for a wide range of retail facilities and services of such a nature as to be fully compatible in the close proximity they must serve.

The purpose of the Conditional Use Provisions is to provide for those retail businesses and services which require a location other than in a centralized business district being either highway oriented, requiring larger tracts of land not normally available, or to provide local neighborhood retail shopping facilities to that residential area immediately adjacent.

8.1 Uses Permitted in the B-1 General Business District:

1. Any use permitted in a residential district.

2. Major Retail Outlets: furniture, department, clothing, shoe and variety stores, hardware, appliance, paint and wallpaper stores.
3. Food, Drug and Beverages: grocery stores, supermarkets, meat markets, drug stores, and liquor stores, bakery in conjunction with retail sales, restaurants, tea rooms and taverns.
4. Specialty Shops: gift shops, magazine, book and stationery outlets, florist shops~ camera and photography shops, sporting goods.
5. Service and Recreation: laundromat, dry cleaning and laundry pick-up stations, barber and beauty shops, shoe repair and tailor shops, mortuaries, printing shop with not more than 10 full time regular employees, places of amusements and assembly.
6. Business and Professional Offices: medical and dental offices clinics; law offices; insurance and real estate offices; banks, finance and utility companies.
7. Automotive and Related Uses: new and used car sales, service and repair; gasoline filling stations, motorcycle and bicycle shops; cab and bus stands and depots.
8. Accessory Uses or Buildings.
9. Business and advertising signs pertaining to the business on the property on which the sign is located providing that (a) illumination of all signs shall be diffused so as not to reflect direct rays of light into adjacent residential districts or into the public way and (b) that any sign located in the direct line of vision of any traffic control signal shall not have flashing intermittent red, green or amber illumination.

8.2 Conditional Uses Permitted in the B-1 General Business District

1. Any conditional use permitted in the residential districts.
2. Building Trades or Equipment: building, concrete, electrical, masonry, sheet metal, plumbing and heating shops, building material establishments (providing no assembly, construction, millwork, or concrete block manufacture is done on premises).
3. Vehicle Drive-In and Heavy Vehicle Services: drive-in theaters, drive-in restaurants and refreshment stands; express, cartage and trucking facilities; large item machinery or bulk sales and storage not including outdoor unfenced storage.
4. Heavy Service and Processing Facilities: laundry and dry cleaning plants; linens, towels, diaper and similar supply services; animal pounds, kennels and veterinary establishment; frozen food lockers; seed and food processing plants; dairies.
5. Accessory Uses or Building.

6. Business and Advertising signs pertaining to the business on the property on which the sign is located providing that (a) illumination of all signs shall be diffused or indirect and shall be arranged so as not to reflect direct rays of light into adjacent residence districts or into the public way, and (b) that any sign located in the direct line of vision of any traffic control signal shall not have flashing intermittent red, green or amber illumination.

8.3 Required Lot Area and Lot Width in the B-1 District

8.3a Residential Uses: Each residential use to be accommodated in the B-1 Business District shall meet the minimum lot area and minimum lot width requirements of the R-1 Residence District.

8.3b Commercial Uses: No minimum lot area or minimum lot width is required for commercial uses.

8.4 Building Height Regulation in the B-1 District

B-1 General Retail District: In the B-1 General Retail District no building shall exceed 2 stories or 30 feet in height.

8.5 Required Yards in the B-1 District

8.5a Residential Uses: Each residential use to be accommodated in the B-1 District shall meet the minimum yard requirements of the R-1 Residence District.

8.5b

Commercial Uses: Front Yard — 25 feet.

Side Yard — no minimum yard required, except lots adjoining a residential district shall provide a side yard on that adjoining side equal to that required in the adjoining Residence District.

Rear Yard — 20 feet. Where a lot line abuts an alley, one-half of the width of such alley may be considered in meeting the rear yard requirement.

8.6 Off-Street Parking and Loading Requirements:

There shall be provided in the B-1 District off-street parking and loading in accordance with the provisions of Article 9.7.

8.7 Landscaping or Screening Provisions

For non—residential uses abutting the “B-1” District the minimum yards may be reduced to 50 percent of the minimum side or rear yard requirements, if acceptable landscaping or screening approved by the Board is provided. Such screening shall be a masonry or solid fence between 4 and 6 feet in height maintained in good condition and free of all advertising or other signs. Landscaping provided in lieu of such wall or fence shall consist of a strip of land not less than 15 feet in width planted with evergreen hedge, or dense planting of evergreen shrubs not less than 4 feet in height.

ARTICLE IX

M-1 PROVISIONS GOVERNING MANUFACTURING DISTRICTS

9.0 Purpose: The purpose of the M-1 Light Manufacturing District is to provide for commercial uses, storage, and those manufacturing uses not normally creating a nuisance discernible beyond its property.

The purpose of the Conditional Use Provision is to provide for industrial uses not allowed in any other district, providing that, within this district, uses of a hazardous nature or those producing extensive smoke or odor shall not be located so that general hazard or nuisance affects a large segment of the community.

9.1 Uses Permitted in the M-1 Light Manufacturing District

1. Any permitted in the B-1 Business District except residential uses.
2. Warehousing and Storage: indoor and outdoor storage of goods and materials including warehousing, pole—yards, building material storage, and trucking storage. However, not including junk yards or similar uses.
3. Manufacturing: manufacture or processing of small items, including gloves, footwear, bathing caps, shoes, boots, boxes and cartons, hardware, toys, electric batteries, motors or generators; textile products manufacture; glass, cement, and stone products manufacture or processing including hatcheries, canning, freezing, storage and bottling.
4. Other manufacturing uses of a light nature, free from any objectionable odors, fumes, dirt, vibration, or noise detectable at the lot line. Such uses shall not be established without an application for a permit by a registered engineer or architect indicating that every reasonable provision will be taken to eliminate or minimize gas fumes, odors, dirt, vibration or noise.

In the event of the denial of such permit, an applicant shall have a right of appeal to the Zoning Board of Appeals.

9.2 Conditional Uses Permitted in the M-1 General Manufacturing District

All uses not otherwise prohibited by law except residential uses, provided, however, that the following uses will be permitted as special uses in the M-1 District when authorized by the Village Council after public hearing and recommendation: by the Zoning Commission; bag cleaning, boiler and tank works; central mixing cement, mortar, plaster or paving materials; metal fabrication plant; gasoline or oil storage above ground in excess of five hundred (500) gallons; slaughter house or stockyards; and the manufacture of acetylene, acid, alcohol or alcoholic beverages, ammonia, bleaching powder, chemicals, brick, pottery, terracotta or tile; candles, disinfectants; dyestuffs; fertilizers, linseed oil, paint, oil turpentine, varnish, soap and tar products, or any other use which in the opinion of the Zoning Commission would emit detrimental or obnoxious noise, vibration, smoke odors, dust or other objectionable conditions beyond the confines of its property.

The Board of Appeals shall recommend Village Council approval if it determines that the proposed use will not extend its detrimental or obnoxious effects beyond the limits of the General Manufacturing District in which it is located. Such special uses shall be subject to any requirements the Zoning Commission feels necessary to further the purpose of the Manufacturing District, as stated in the preamble.

9.3 Required Lot Area and Lot Width in Manufacturing Districts

Each use to be established in the M-1 District shall provide a minimum lot area of 8,000 square feet and a minimum lot width of 60 feet.

9.4 Building Height Regulations in Manufacturing Districts No building in the M-1 District shall exceed 50 feet in height.

9.5 Yards Required in Manufacturing Districts

All structures to be constructed, altered, or moved in the M-1 District shall provide yards of the following minimum depths:

Front Yard — 35 feet

Side Yard — 15 feet

*Except where a side yard abuts a residential district in which case a side yard of 25 feet shall be provided.

Rear Yard — 25 feet

9.6 Screening Required Between Manufacturing and Residential Districts Newly established manufacturing uses adjacent to or backing on a residential district shall provide on that adjacent property line a dense hedge, tree row, or other suitable landscape device adequate to visually screen the industrial area from the residential area.

9.7 Off-Street Parking and Loading

There shall be provided in the M-1 District adequate off-street parking and loading in accordance with the provisions of this Resolution.

ARTICLE X

P-1 PUBLIC USE DISTRICT

10.0 Permitted Uses in the Public, Semipublic District are:

- (a) public or private parks, preserves or sanctuaries and accessory structures such as shelters and picnic areas.
- (b) other public or private uses, including schools offering general educational courses as licensed by the State of Ohio, which in the opinion of the Planning Commission conform to the purpose of the District.
- (c) Any agricultural use other than pasturage. The Planning Commission shall judge the acceptability of such uses on the basis of whether or not the proposed use is compatible with the interest of the community in preserving any unique ecological or environmental attributes which the land may possess.
- (d) Nursery production, and plant materials.
- (e) College or university with associated related uses.

10.1 Conditional Uses.

Conditional Uses in the Public, Semipublic District are:

- (a) Churches and other places of worship.
- (b) Cemeteries.
- (c) Municipal sewage disposal.
- (d) Recycling of solid waste, including sorting, grinding, incineration, separation, bailing, storage, burial and similar related uses, subject to the approval of the County Board of Health, the Ohio Environmental Protection Agency and other regulatory and licensing authorities.
- (e) Public service facilities.

- (f) Non-commercial recreation facilities.

10.2 Conditional Uses to be Subject to Specific Criteria.

Conditional uses specified are subject to the following specific criteria as established and as applicable and as indicated below, and as further regulated herein, as applicable.

- (a) Churches and other places of worship
- (b) Cemeteries
- (c) Mineral extraction
- (d) Sanitary land fills and recycling of solid waste
- (e) Municipal sewage disposal

10.3 Accessory Uses and Structures.

Accessory uses and structures, customarily incidental to the permitted or conditionally permitted uses, are hereby permitted subject to the same yard, height, bulk, location and other requirements imposed on the principal permitted or conditionally permitted use in the District.

10.4 Development Standards for Public, Semipublic District.

Lot Requirements in the Public, Semipublic District are:

- (a) Minimum Lot Area: None, except that lot size shall be adequate to meet all yard and parking requirements.
- (b) Minimum Lot Width: None, except that all lots must abut a public street and have adequate width to meet the parking and yard space requirements.
- (c) Minimum Front Yard: Thirty Feet. Pavement areas shall be at least ten feet from the right-of-way.
- (d) Minimum Side Yard: For structures, fifteen feet. For pavement areas, seven feet.
- (e) Minimum Rear Yard: For structures, fifteen feet, twenty feet when abutting residential districts. For pavement areas, seven feet.
- (f) Maximum Lot Coverage: For structures, outdoor storage, open service and pavement areas, eight-five percent (85%). The remainder of the site shall be landscaped with natural vegetation.

10.5 Building Requirements in the P-1 District.

- (a) Maximum Height: Six stories but not to exceed a total maximum height of 75 feet.
- (b) Accessory buildings have the same yard requirements as main buildings.

10.6 Site Requirements in the P-1 District.

(a) In addition to the specific criteria listed, the Planning Commissioner in the case of a zoning district amendment or the Board of Zoning Appeals in the case of a conditional use shall impose further conditions as are necessary to comply with the purpose of the P-1 District and the other provisions of the Zoning Ordinance.

(b) All applicable subdivision regulations, sign regulations, as well as parking and landscaping regulations of this Zoning Ordinance must be satisfied.

(c) Parking accommodations and loading areas shall be provided pursuant to a layout plan designed by the owner of the land to be developed, and showing traffic movement, ingress and egress, traffic control points, the number and size of parking spaces, and service areas. In addition, the expected peak hour traffic volume for employees, members of the public and deliveries shall be described by text.

(d) Provision for storm drainage shall be adequate to protect the public and owners of surrounding land.

(e) Trash and litter shall be controlled, and stored in container systems which are located and enclosed in a manner to screen them from view.

ARTICLE XI

SPECIAL PROVISIONS

11.0 Performance Standards:

No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition unless the following performance standards are observed:

1. Fire Hazards: Any activity involving the use of flammable or explosive materials shall be protected by adequate fire fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.

2. Radioactivity or Electrical Disturbances: No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

3. Noise: Noise which is objectionable as determined by the Board due to volume, frequency or beat shall be muffled or otherwise controlled, except during construction operations. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.

4. Vibration: No vibration shall be permitted which is discernible without instruments on any adjoining lot or property.
5. Smoke: Smoke shall be controlled as much as economically possible as determined by the Village Council.
6. Odors: No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.
7. Air Pollution: No pollution of air by flyash, dust, vapor, or other substance shall be permitted which is harmful to health, animals, vegetation or other property or which can cause soiling.
8. Glare: No direct or reflected glare shall be permitted which is visible from any property or from any public street, road or highway.
9. Erosion: No erosion, by either wind or water shall be permitted which will carry objectionable substances into neighboring properties.
10. Water Pollution: Pollution of water shall be subject to the requirements and regulations established by the State Sanitary Water Board, and Morrow County Health Department.

11.1 Enforcement Provisions

All uses existing on the effective date of the Resolution shall conform to these performance requirements within two (2) years, provided that an extension of up to six (6) months may be granted by the Board. Extensions may be granted by the Board if the owner or operator of the use can demonstrate that compliance would create an unreasonable hardship.

The Zoning Inspector shall refer any proposed use which is likely to violate performance requirements to the Board for review.

ARTICLE XII

DISPLAY SIGNS AND OUTDOOR ADVERTISING

12.0 Purpose: The purpose of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distraction and obstructions that

may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right-of-way, provide more open space, and curb the deterioration of the natural environment and enhance community development.

12.1 Governmental Signs Excluded

For the purpose of this resolution, "sign" does not include signs erected and maintained pursuant to and in discharge of any governmental functional, or required by any law, ordinance or governmental regulation.

12.2 General Requirements

The regulations contained in this section shall apply to all signs and all use districts.

1. Any illuminated sign or lighting device shall employ only light emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance;

2. All wiring, fittings, and materials, used in the construction, connection, and operation of electrically illuminated signs shall be in accordance with the provisions of the National Electric Code or the local electric code in effect.

3. No projecting sign shall be erected or maintained from the front or face of a building a distance or more than two (2) feet, including those projecting from the face of any theater, hotel, or motel marquee;

4. No sign shall be placed on the roof on any building;

5. No portable or temporary sign shall be placed on the front or facing a building, on any premises;

6. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving devices.. Such devices, as well as strings of lights shall not be used for the purpose of advertising or attracting attention when not part of a sign;

7. No sign erected or maintained in the window of a building, visible from any public or private street or highway, shall occupy more than twenty (20) percent of the window surface;

8. No sign of any classification shall be installed, erected, or attached in any form, shape or manner to a fire escape or any door or window giving access to any fire escape;

9. All signs hung and erected shall be plainly marked with the name of the person, firm, or corporation hanging or erecting the sign;

10. Should any sign be or become unsafe or be in danger with the name of the person maintaining the same, shall upon receipt of written notice from the Zoning Inspector proceed at once to put such sign in a safe and secure condition or remove the sign;

11. No sign shall be placed in any public right-of-way except publicly-owned signs, such as traffic control signs and directional signs. Signs directing and guiding traffic and parking on private property but bearing no advertising matter shall be permitted on any property;

12. No building wall shall be used, for display of advertising except that pertaining to the use carried on within such building.

12.3 Measurement of Sign Area

The surface area of a sign shall be computed as including the entire area within a regular, geometric form or combinations of regular, geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not being advertising matter shall not include in computation of surface area.

12.4 Signs Permitted in all Districts not Requiring a Permit

1. Signs advertising the sale, lease, or rental of the premises upon which the sign is located, shall not exceed twelve (12) square feet in area, except in all residential districts where the area of the sign shall not be more than six (6) square feet;

2. Professional name plates not to exceed four (4) square feet in area;

3. Signs denoting the name and address of the occupants of the premises, not to exceed two (2) square feet in area.

12.5 Signs Permitted in any District Requiring a Permit

1. Signs or bulletin boards customarily incidental to places of worship; libraries, museums, social clubs, or societies, which signs or bulletin board shall not exceed fifteen (15) square feet in area and which shall be located on the premises of such institution;

2. Any sign advertising a commercial enterprise, including real estate developers or subdividers, in a district zoned residential shall not exceed twelve (12) square feet in area and shall advertise only the names of the owners, trade names, products sold and/or the business or activity conducted on the premises where such sign is located.

12.6 Signs Permitted in Commercial and Industrial Districts Requiring a Permit

The regulations set forth in this section shall apply to signs in all commercial and industrial districts and shall require a permit.

12.7 Temporary Signs

Temporary signs not exceeding fifty (50) square feet in area, announcing special public or institutional events, the erection of a building, the architect, the builders, or contractors may be erected for a period of sixty (60) days plus the construction period.

12.8 Free-Standing Signs

Free-standing signs not over thirty (30) feet in height, having a maximum total sign area of one hundred (100) sq. ft. per display area and located not closer than ten (10) sq. ft. to any street right-of-way line and not closer than thirty (30) feet to any adjoining lot line may be erected to serve a group of business establishments. There shall be only one free-standing sign for each building, regardless of the number of businesses conducted in said building.

12.9 Pole Signs

Pole signs for symbolic design shall be permitted for business establishments, provided no part of such sign shall project into the right-of-way of any street or highway. The maximum area of any face of such sign shall not exceed thirty (30) square feet, and the pole support of the sign shall not be less than fifty (50) feet from any lot in any residential district.

12.10 Wall Signs Pertaining to Non-Conforming Uses

Wall signs pertaining to a non-conforming use shall, be permitted on the same premises of such use, provided the area of such sign does not exceed twelve (12) square feet.

12.11 Political Signs

No political sign shall be posted in any place or in any manner that is destructive to public property upon posting or removal. All candidates for public office, their campaign committees, or other persons responsible for the posting on public property of campaign material shall remove such material within two weeks following election day.

12.12 Sign Setback Requirements

Except as provided in this resolution, signs and outdoor advertising structures where permitted, except for the modifications in 15.12a, 15.12c inclusive.

12.12a Increased Setbacks: For every square foot by which such sign or outdoor advertising structure exceeds fifty (50) square feet, the setback shall be increased by one-half (½) foot but need not exceed one hundred (100) feet.

12.12b Setbacks at the Intersection of Highways: At the intersection of any state or federal highway with an arterial or collector street, the setback of any sign or outdoor advertising structure shall not be less than fifty (50) feet from the established right-of-way of each highway or street.

12.12c Setbacks for Public and Quasipublic Signs: Real Estate signs and bulletin boards for a church, school, or any other public, religious, or educational institution may be erected not less than ten (10) feet from the established right-of-way line of any street or highway provided such sign or bulletin board does not obstruct traffic visibility at street or highway intersections.

12.13 Special Yard Provisions

Signs and advertising structures where permitted shall be erected or placed in conformity with the side and rear yard requirements of the district in which located except that no sign or advertising structure shall be erected or placed closer than twenty (20) feet of a side or rear lot line in any residential district.

12.14 Violations

In case any sign shall be installed, erected, constructed, or maintained in violation of any of the terms of this resolution, the Zoning Inspector shall notify in writing the owner or lessee thereof, to alter such sign so as to comply with this Resolution. Failure to comply with any of the provisions of this Article shall be deemed a violation and shall be punishable under Article 23 of this resolution.

12.15 Fees

Fees shall be subject to the provisions as specified by the Village Council of Marengo.

ARTICLE XIII

ENFORCEMENT

13.0 Enforcement by Zoning Inspector

There is hereby established the office of Zoning Inspector. It shall be the duty of the Zoning Inspector to enforce this Resolution in accordance with the administrative provisions of this Resolution.

All departments, officials and public employees of the Village vested with the duty or authority to issue permits and licenses shall conform with the provisions of this Resolution and shall issue no permit or license for any use, building, or purpose in conflict with the provisions of this Resolution. Any permit or license issued in conflict with the provisions of this Resolution shall be null and void.

13.1 Filing Plans

Every application for a Zoning Certificate shall be accompanied by plans in duplicate drawn to scale in black or blue—line print, showing (on the basis of the survey) the actual location, shape and dimensions of the lot to be built upon or to be changed in its use in whole or in part; the exact location and size of any building or structure to be erected or altered; the existing and intended use of each building or structure or any part thereof; the number of families or housekeeping units the building is designed to accommodate; and when no buildings are involved, the location of the present use and proposed use to be made of the lot; such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Resolution. One copy of such plans shall be returned to the owner when such plans have been approved by the Zoning Inspector, together with such zoning certificate as may be granted.

The lot and the location of the building thereon shall be staked out on the ground before construction is started. In every case where the lot is not provided and is not intended to be provided with public water and/or the disposal or sanitary waste by means of public sewers., the application shall be accompanied by a Certificate of Approval by the Health Department of Morrow County of the proposed method of water supply and/or disposal of sanitary waste.

13.2 Zoning Certificate

It shall be unlawful for a owner to use or to permit the use of any structure, building, or land, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a Zoning Certificate shall have been issued by the Zoning Inspector. Such Zoning Certificate shall show that such building or premises, or part thereof, and the proposed use thereof are in conformity with the provisions of this Resolution. It shall be the duty of the Zoning Inspector to issue a Zoning Certificate provided he is satisfied that the structure, building or premises and the proposed use thereof, and the proposed methods of water supply and disposal of sanitary waste conform with all the requirements of this Resolution.

No permit for the excavation and construction shall be issued by the Zoning Inspector unless the plans, specifications, and the intended use conform with the provisions of this Resolution.

The Zoning Inspector shall act upon all such applications on which he is authorized to act within the provisions of this Resolution within 30 days after the date they are filed in full compliance with all the applicable requirements. He shall either issue a Zoning Certificate within said 30 days or shall notify the applicant in writing of his refusal of such Certificate and the reasons therefore.

Failure to notify the applicant in case of such refusal within the said 30 days shall entitle the applicant to a Zoning Certificate unless the applicant consents to an extension of time.

Under such rules as may be adopted by the Board, the Zoning Inspector may issue a temporary Zoning Certificate for a part of a building.

Upon written request from the owner or tenants, the Zoning Inspector shall issue a Zoning Certificate for any building or premises existing at the time of the enactment of this Resolution certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this Resolution.

13.3 Fees

Fees shall be charged in accordance with the orders and directions of the Board of Village Council.

13.4 Violations and Penalties

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of the provisions of this Resolution or any amendment or supplement thereto adopted by the Village Council. Any person, firm or corporation violating any of the provisions of this Resolution or any amendment or supplement thereto shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100.00. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense.

13.5 Violations — Remedies

In case any building is, or is supposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is or is proposed to be used in violation of this Resolution, or any amendment or supplement thereto, the Village Council, the Prosecuting Attorney for Morrow County, the Zoning Inspector, or any adjacent or neighboring property owner who would be specifically damaged by such violation in addition to other remedies provided by law may institute injunction, mandamus, abatement, or other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

ARTICLE XIV

BOARD OF ZONING APPEALS

14.0 Appointment. The Board of Zoning Appeals as constituted at the time of enactment of this Ordinance shall continue in power. The Board shall consist of five residents of Marengo, appointed by the Mayor, with the approval of the Village Council, for terms of six years. Vacancies shall be filled in the same manner for the un-expired terms. Members of the Board shall serve until their successors are appointed. Members of the Board shall be removable from their positions for cause upon the filing of a written complaint with the Chairperson of the Board and after public hearing thereon.

14.1 Powers and Duties. The Board of Zoning Appeals is the municipal body charged with the duty to hear all appeals from the decisions of the Zoning Inspector and/or the Planning Commission. The Board has the duty to conduct all appellate proceedings before it in a fair and unbiased fashion so that justice may be served to all appearing there. The Board has the power to uphold, reverse, or modify the decision appealed, or it may remand the decision to the agency from whence it came for further proceedings. Also, where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the Zoning Map, the Board, after notice to the owners of the subject property(ies) and after public hearing, shall be empowered to interpret the Map in such a way as to carry out the intent and purpose of this ordinance. In case of any question as to the location of any boundary line between zoning districts or where there is uncertainty as to the meaning or intent of a textual provision of the ordinance, a request for interpretation of the Zoning Map or of the textual provision in question may be made to the Board and a determination shall be made thereafter.

14.2 Procedures.

A. The Board shall elect a Chairperson, Vice-Chairperson, and Secretary from its membership at its first meeting after January 1st of each year. The Chairperson is to conduct the meetings of the Board according to the established rules of procedure; determine order of meeting agendas; and, be responsible for the recording of each public meeting. The Board may adopt rules for its own government in accordance with this ordinance; if no such rules are adopted, the Board shall conduct its meetings and hearings according to Robert's Rules of Order, the Ohio Appellate Procedure Act (O.R.C. 2505), and the Ohio Administrative Appeal Act (O.R.C. 2506).

B. Meetings shall be held no less than once every four months or at the call of the Chairperson when business has been forwarded to the Board through an appeal or otherwise. The Chairperson, or in his absence the Vice-Chairperson or Secretary, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public.

C. All meetings of the Board shall be either video or audio-taped; these records shall be kept in the office of the Board for no less than 45 days after the meeting. In the event an appeal of the Board's decision is filed, the taped record shall be maintained indefinitely, until the appeal is fully resolved through the judicial system.

D. The Board shall conduct its proceedings as appellate, adversarial proceedings, relying only on the information contained in the agency's record, unless that record is so incomplete or so unreliable that the Board is unable to determine what issue should have been addressed by the lower agency and/or it is unable to determine the critical facts upon which the lower agency's decision was based. In such a situation, it is permitted to take non-duplicative sworn testimony to supplement the record. In all cases, the Board shall permit both sides to offer persuasive arguments as to the appropriate interpretation or result or decision; the Board may offer the same opportunity to members of the general public who are present at the hearing and placed under oath.

E. The Secretary shall keep minutes of the proceedings, indicating the vote of each member on each question, or if absent or failing to vote, so note. Also, the Secretary shall keep records of the Board's hearings (including originals or copies of all documents serving as exhibits) and other official actions, all of which are to be filed as soon as possible in the office of the Board and become public record. The secretary shall also keep the calendar of meetings and events pertaining to the Board; keep each member apprised of meeting times, dates, and agendas; distribute a copy of documents, drawings, and other papers for each item of business which comes before the Board to each member; maintain records of and communicate all correspondence to and on behalf of the Board; provide for appropriate notice to public and others of meetings. The vice-Chairperson is to perform the duties of the Chairperson and/or the secretary in the event of his absence. The Board may elect to impose or eliminate other duties upon the officers and the Zoning Inspector and Planning Commission as necessary, consistent with the terms of this zoning code.

F. Three members of the Board shall constitute a quorum. The Board shall act by resolution and the concurring vote of three members of the Board shall be necessary to reverse any order, requirements, decision or determination of the agency from which there has been an appeal, except that in the event that only three members of the Board are present at the meeting, their unanimous vote shall be necessary for action.

14.3 Appeals. An appeal to the Board may be taken by any aggrieved or affected person, or by any officer, department, board, or bureau of the Village which is aggrieved or affected by any decision of the Zoning Inspector or the Planning Commission. Such appeal shall be filed within 20 days after the decision, by filing with the Zoning Inspector or Planning Commission (whichever is the appropriate entity being appealed) and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Inspector or Planning Commission shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The appealing party shall also deposit the appropriate fee for such an appeal (Chapter 21).

14.4 Hearings and decisions. The Board shall fix a reasonable time for the hearing of the appeal and shall give written notice of said hearing to the parties in interest, including all property owners within 500 feet of the property in question no less than 14 days in advance of the hearing. At the hearing, any party may appear in person or be represented by agent or attorney. The Board shall issue a decision upon the appeal after stating its findings of fact, based upon the record, and voting on the action to be taken on the appeal; such decision shall be made no less than five (5) and no more than 45 days after the appeals hearing. A written copy of the Board's decision shall be mailed to all parties in interest within 48 hours of the announcement of its decision. Such decision shall be binding on the Zoning Inspector and/or the Planning Commission, and he shall incorporate the terms and conditions of the same in any further action authorized by the Board.

14.5 Appeals from decisions of the Board. Any person or persons, including officers, departments or bureaus of the Village, who are jointly or severally aggrieved or affected by any decision of the Board of Zoning Appeals may file a notice of appeal with the Court of Common Pleas of Morrow County. Such notice of appeal shall be filed with the court and the Board within thirty (30) days after the filing of the final decision of the Board. An appeal shall stay all action in furtherance of the issue appealed from unless the Zoning Inspector certifies to the Board after the notice of appeal has been filed that by reasons stated in writing by him that a stay would cause imminent peril to life or property. In such case, actions shall not be stayed otherwise than by an order which may be granted by the Court of Common Pleas of Morrow County on application by the appellant.

14.6 Administrative Review and Variances

A. Administrative Review: The Board shall have the power to hear and decide appeals filed as hereinbefore provided where it is alleged by the appellant that there is an error in any order, requirements, decision, or warrant or refusal made by the Zoning Inspector or other administrative official in the interpretation of the provisions of this Resolution.

B. Variances: The Board shall have the power to authorize upon appeal in specific cases filed as hereinbefore provided such variances from the provisions and requirements of this Resolution as will not be contrary to the public interest; but only in such cases where, owing to special conditions, pertaining to a specific piece of property, the literal enforcement of the provisions and requirements of this Resolution would cause undue and unnecessary hardship.

Where, by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of this Resolution, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this

Resolution would involve practical difficulty or would cause unnecessary hardship, the Board shall have the power to authorize a variance from the terms of this Resolution so as to relieve such hardship and so that the spirit and purpose of this Resolution 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 of use as it may deem necessary in the interest of the furtherance of the purposes of this Resolution and in the public interest. In authorizing a variance with attached conditions, the Board shall require such evidence and guarantee or bond as it may deem necessary to insure that the conditions attached are being and will be complied with.

No such variances in the provisions or requirements of this Resolution shall be authorized by the Board unless the Board finds that all the following facts and conditions exist:

- (1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or classes of uses in the same zoning district;
- (2) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
- (3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this Resolution or of the public interest.

No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property or the intended use of said property for which a variance is sought — one or the other or in combination — is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.

14.7 General

In exercising its power, the Board may, in conformity with the provisions and statutes and of this Resolution, reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

14.8 Variances — Literal Enforcement Would Create Undue Hardship

The Board shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the terms, provisions or requirements of this Resolution as will not be contrary to the public interest; provided however, that such variances shall be granted only in such cases where, owing to special and unusual

conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of this Resolution would result in practical difficulty or undue hardship, so that the spirit of the Resolution shall be upheld, public safety and welfare secured and substantial justice done.

14.9 Variance — Conditions Prevailing

Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this Resolution, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use of development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this Resolution would involve practical difficulty or would cause unnecessary to carry out the spirit and purpose of this Resolution — the Board shall have power to authorize a variance from the terms of this Resolution, so as to relieve such hardship. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed structures or use as it may deem necessary in the interest of the furtherance of the purpose of the Resolution and in the public interest. In authorizing a variance, with attached conditions, the Board shall required such evidence and guarantee or bond as it deem to be necessary, to enforce compliance with the conditions attached.

14.10 Variance — Findings of the Board

No such variance of the provisions or requirements of this Resolution shall be authorized by the Board unless the Board finds, beyond reasonable doubt that all the following facts and conditions exist:

1. Exceptional Circumstances: That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property, that do not apply generally to other properties or classes of uses in the same zoning district.
2. Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
3. Absence of Detriment: That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Resolution or the public interest.
4. Not of General Nature: No grant of a variance shall be authorized unless the Board specifically finds that the condition of situation of the specific piece of property, or the intended use of said property, for which variance is sought is not of so general or recurrent a nature, as to make reasonable practicable the formulation of a general regulation for such conditions or situation.

5. Variances — Board May Reverse Orders, Etc.: In exercising its power, the Board may, in conformity with the provisions of statute and of this Resolution, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the Office from whom the appeal is taken.

14.11 Performance Standards — Procedure

The Board shall have the power to authorize, upon application in specific cases, filed as hereinafter provided, issuance of a Zoning Certificate for uses that are subject to performance standards' procedure under this Resolution, as provided in the following:

1. Application: An application for a Zoning Certificate for a use subject to performance standards shall be submitted in duplicate on a form prescribed by the Board. The applicant shall also submit in duplicate a plan of the proposed machinery, processed and products, and specifications for the mechanisms and techniques to be used in restricting the emission of dangerous and objectionable elements as set forth in Article 13 in accordance with rules prescribed by the Board specifying the type of information required in such plans and specifications. The fee for such application shall include the cost of the special reports that may be required to process it, as set forth in Paragraph 2 below.

2. Report by Specialists: If, in its opinion, the proposed use may cause emission of dangerous or objectionable elements, the Board may refer the application to one or more specialists qualified to advise as to whether a proposed use will conform to the applicable performance standards specified in Article 13 for investigation and report. Such consultant or consultants shall report as promptly as possible after his or their receipt of such application. A copy of such report shall be promptly furnished to the applicant.'

3. Review by Board: Within 30 days after the Board has received the aforesaid application, or the aforesaid report, or within such further period as agreed to by the applicant, the Board shall decide whether the proposed use will conform to the applicable performance standards, and on such basis shall authorize or refuse to authorize issuance of a Zoning Certificate or require a modification of the proposed plan of construction, or specifications, proposed equipment, or operation. Any Zoning Certificate so authorized and issued shall be conditioned upon, among other things, the following:

(a) that the applicant's buildings and installations when completed will conform in operation to the applicable performance standards; and

(b) that the applicant will pay the fees for services of the expert consultant or consultants deemed reasonable and necessary by the Board to advise the Board as to whether or not the applicant's completed buildings and installation in operation will meet said applicable performance standards.

4. Continued Enforcement: The Zoning Inspector shall investigate any purported violation of performance standards and, if there are reasonable grounds for the same, shall notify the Board of the occurrence or existence of a probable violation thereof. The Board shall investigate the alleged violation, and for such investigation shall employ qualified experts. The services of any qualified expert employed by the Board to advise in establishing a violation shall be paid by the violator if said violation is established, otherwise by the Village.

ARTICLE XV

PLANNING AND ZONING COMMISSION

15.0 Establishment and appointment of the Planning Commission. The Planning Commission as it is presently formulated and functioning is composed of the Village Council and the Mayor. Members of the Commission shall serve while they are members of Council or the Mayor of the Village of Marengo.

15.1 Officers. The Commission shall select a Chairperson, Vice-Chairperson and a secretary at its first meeting after January 1 of each year. The Chairperson is to conduct the meetings of the Commission according to the established rules of procedure; determine order of meeting agendas; administer oaths to each person offering testimony for the consideration of the Commission; and, be responsible for the recording of each public meeting. The secretary is to keep all minutes of the meetings; keep the calendar of meetings and events pertaining to the Commission, keep each member apprised of meeting times, dates, and agendas; distribute a copy of documents, drawings, and other papers for each item of business which comes before the Commission to each member; maintain records of and communicate all correspondence to and on behalf of the Commission; and provide for appropriate notice to public and others of meetings. The Commission may elect to impose or eliminate other duties upon the officers and the Zoning Inspector as necessary.

Powers and duties. The Planning Commission fulfills the purposes of this ordinance through the execution of the following duties and powers:

A. It shall hear and decide on the authorization, after due consideration, of all applications for a zoning certificate in accordance with the provisions of this ordinance.

B. It shall hear and decide on the authorization, after due consideration and in accordance with the provisions of this Ordinance, of applications filed for conditional uses, or for interpretation of the Zoning Map, or for decision upon other special questions upon which the Commission is authorized to pass by this ordinance. In considering an application for a conditional use, or interpretation of the Zoning Map, the Commission shall give due regard to the nature and condition of all adjacent uses and strictures; and in authorizing a conditional use the Commission may impose such requirements and conditions with respect to location, construction, maintenance and operation--in addition

to those expressly stipulated in this ordinance for the particular conditional use--as the Commission may deem necessary for the protection of adjacent properties and the public interest and the purposes of this ordinance.

C. It shall hear and decide on the authorization, after due consideration, of applications for the temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this ordinance for the district in which it is located, provided that such use be of a temporary nature and does not involve the erection of a structure and is not a preliminary action to the application for a conditional use permit or zoning change. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit, for not more than two (2) months, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

D. It shall hear and decide after due consideration complaints regarding violations of this ordinance; further, it shall have the power to levy and collect any fees or fines in connection with the administration of this ordinance.

E. It shall hear and make recommendations to Council upon amendments or changes to the zoning ordinance, including the detailed requirements of particular sections or the districts as reflected upon the Zoning Map of the Village of Marengo.

F. It may make recommendations to the Council concerning the acquisition of development rights, easements, or property through eminent domain proceedings as necessary to further the purposes of this ordinance.

G. It may make recommendations to the Council concerning the utilization of grants from federal and state agencies, private groups and individuals and the utilization of budgetary appropriations to promote the graceful development and maintenance of the natural and historic resources within the Village of Marengo.

H. It may evaluate and comment upon decisions by other municipal agencies which affect the physical development and land use patterns in the Village of Marengo. If the property subject to Commission jurisdiction is governmentally owned, the government stands in the position of any other citizen and is subject to the provisions of this ordinance.

I. It may consult technical experts or other persons as may be required to assist in the performance of the enumerated duties and powers or for such other tasks as Council may require. In the event that the Council makes appropriations available for such purpose, the experts or persons may be hired or paid for their services.

J. It may accept grants, gifts, and bequests on behalf of the Village and may make application for, receive and administer such from governmental or private entities consistent with the purposes of this ordinance.

K. It may provide for its members to attend educational sessions, seminars, or conferences pertaining to environmental, planning, or preservation issues at least once a year; or may obtain educational materials; and produce publications; and join professional organizations related to planning and related fields.

L. It may request and receive any appropriate information, cooperation, assistance, or studies from any Village department, board, committee, agency, or commission and any county or township department, board, agency or commission.

15.2 Procedures and meetings. The Commission may set a regular meeting time to discuss its business as necessary, provided that the Commission meets not less than once every year. Meeting times, dates, and locations shall be publicized as required by Village Ordinance. Notice of meeting times, dates and locations shall be sent two (2) weeks in advance to any landowner whose property is a matter before the Commission. In the event that notice cannot be provided to an owner by mail, notice may be made by publication in a newspaper of general circulation per the Village charter. Meetings shall be conducted according to Robert's Rules of Order, or any other method formally adopted as procedural policy by the Commission that addresses: order of business, length of speech/presentation, number of speakers, length of meetings, continuations of meetings, and the effect of attendance by the landowner with business before the Commission. All meetings of the Commission shall be open to the public. All meetings of the Commission shall be either video- or audio-taped; these records shall be kept in the office of the Commission for no less than 45 days after the meeting. In the event an appeal of the Commission's decision is filed, the taped record shall be maintained indefinitely, until the appeal is fully resolved through the appellate process. Unless the Commission passes a rule to the contrary, owners and developers are required to attend any meeting or hearing upon their applications. Failure to attend may result in the rejection of the application without further proceedings, at the discretion of the Commission.

15.3 Format of applications. Applications for authorization of any type from the Commission shall be submitted with the original and six (6) copies. The application shall be on any forms provided and prescribed by the Commission and/or the Zoning Inspector or, if none is so prescribed, shall contain the following information on 8 1/2 x 11 white paper:

A. Name and address and phone number(s) of owner, developer, applicant, or complainant.

B. Address of subject property with a scale map of the surrounding area as called for in this ordinance.

C. Nature of the application: zoning certificate, demolition permit, construction permit, conditional use permit, or other.

D. Detailed written description of the project (including traffic reports, lighting plans, and other reports called for by this ordinance). Specifically, the application shall state, at minimum, the existing and intended use of each building or structure or part thereof, and the number of families or dwelling units the building is designed to accommodate.

E. Drawings, plans, maps, photographs, or other illustrative documentation of the project. Plans shall be drawn to scale in black line or blue print, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part; the exact location, size and height of any building or structure to be erected or altered; in the case of a proposed new building or structure or proposed alteration of an existing building or structure, scale drawings showing the front, side, and rear elevations of the proposed building or structure, or of the structure as it will appear after the work for which a permit is sought shall have been completed; and, when no buildings are involved, the location of the present use and proposed use to be made of the lot; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this ordinance.

F. Material samples, plant lists, and contractor names, if available.

The application shall be submitted with any required fee to the Zoning Inspector who shall determine if the application is complete within fifteen (15) days. If the application is complete, he shall forward it immediately to the Planning Commission for the scheduling of a meeting or other review. If the application is incomplete, he shall notify the applicant in writing immediately and the applicant shall have fifteen (15) days to complete the application in full. Alternatively, the applicant may elect to withdraw the application for time to make the completions and without penalty to himself. If the application is not withdrawn and is not completed within the fifteen (15) day period, the Zoning Inspector shall return the application and all but one (1) copy and the deposited fee to the applicant and no further action shall be required by the Inspector or Commission.

15.4 Review of applications. Once the Zoning Inspector has forwarded an application to the Planning Commission, it shall take the following actions:

A. Schedule the notice of and the meeting on the application and shall ensure that proper notice is given to the parties called for under this ordinance.

B. Conduct its meeting on the application according to its established procedural rules.

C. Not less than 24 hours nor more than thirty (30) days from the conclusion of the hearing or meeting upon the application, it shall publish its findings of fact and its decision based thereon.

D. Grant, deny, or conditionally grant the application according to the compliance of the application with this ordinance and the standards and criteria which appear in it. Conditions attached to the granting of an application are binding upon the applicant

15.5 Public Notice. Notice of an application for a conditional use or variance shall be forwarded by ordinary mail to all property owners of record adjoining the lot or property, which is the subject of the application. Such notice shall be postmarked a minimum of ten (10) days prior to any hearing or action on such application by any Village body. Further, such notice shall be posted at the Village Post Office at least seven (7) days prior to any hearing or action on any application by any Village body. In order to facilitate the foregoing notice provisions and adequate community input, applications for conditional use permits must be submitted to the commission at least twenty-one (21) days prior to any regular meeting at which they are to be discussed.

ARTICLE XVI

DISTRICT CHANGES AND RESOLUTION AMENDMENTS

16.0 Initiation of Amendments or Supplements

Amendments or supplements to the Zoning Resolution may be initiated by motion of the Planning Commission, by the passage of a resolution therefore by the Village Council or by the filing of an application therefore by one (1) or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment or supplement with the Zoning Commission. The Village Council shall upon the passage of such resolution certify it to the Zoning Commission.

16.1 Procedure for Change

Applications for amendments or supplements to this Resolution shall be submitted to the Planning Commission upon such forms, and shall be accompanied by such data and information, as may be prescribed for that purpose by the Planning Commission, so as to assure the fullest practicable presentation of facts for the permanent record. Each such application shall be verified by at least one of the owners or lessees of the property within the area proposed to be changed or affected, attesting to the truth and correctness of all facts and information presented with the applications.

16.2 Names and Addresses of Property Owners

Any person or persons desiring amendments or supplements to this Zoning Resolution shall file with the application for such change a statement giving the names of all owners of property within the contiguous to the area proposed to be reclassified or redistricted, and the addresses of such owners appearing on the current tax roll.

16.3 Public Hearing by Planning Commission

Upon the adoption of such motion, or the certification of such resolution or the filing of such application the Planning Commission shall set a date for a public hearing thereon which date shall not be less than 20 days, not more than 40 days from the date of the certification of such resolution or the date of adoption of such motion or the date of the filing of such application. Notice of such hearing shall be given by the Planning Commission by one publication in one or more newspapers of general circulation in the Village at least 15 days before the date of such hearing.

16.4 Written Notice

Written notice of the hearing shall be mailed by the Zoning Commission to all owners of property within and contiguous to the area proposed to be reclassified or redistricted by certified mail 15 days before such hearing to the addresses of such owners appearing on the current tax roll, list or duplicate of the County or to the address of the property. The failure of delivery of such notice shall not invalidate any amendment or supplement.

16.5 Recommendation by Planning Commission to Village Council

The Planning Commission shall, within 30 days after such hearing, recommend the approval or denial of the proposed amendment or supplement, or the approval of some modification thereof and submit such recommendation together with such application or resolution, the text and map pertaining thereto and the recommendation of the Regional Planning Commission thereon to the Village Council.

16.6 Public Hearing by Village Council

The Village Council shall, upon receipt of such recommendation, set a time for a public hearing on such proposed amendment or supplement, which date shall not be more than 30 days from the date of the receipt of such recommendation for the Planning Commission. Notice of such public hearing shall be given by the Village by one publication in one or more newspapers of general circulation in the Village, at least 15 days before the date of such hearing.

16.7 Submission to State Highway Director

Before any zoning permit is issued affecting any land within three—hundred (300) feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to local officials by the State Highway Director or any land within a radius of five—hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Zoning Inspector shall give notice, by registered or certified mail to the Highway Director. The Zoning Inspector shall not issue a zoning permit for one—hundred twenty (120) days from the date the notice is received by the Highway Director. If the Highway Director notifies the Zoning Inspector that he

shall proceed to acquire the land needed, then the Zoning Inspector shall refuse to issue the zoning permit. If the Highway Director notifies the Zoning Inspector the acquisition at this time is not in the public interest or upon the expiration of the one hundred twenty (120) day period of any extension thereof agreed upon by the Highway Director and the property owner, the Zoning Inspector shall, if the application is in conformance with all provisions of this resolution, issue the zoning permit.

16.8 Written Notice

Written notice of the hearing shall be mailed by the Planning Commission to all owners of property within and contiguous to the area proposed to be reclassified or redistricted by certified mail 15 days before such hearing to the addresses of such owners appearing on the current tax roll, list or duplicate of the County or to the address of the property. The failure of delivery of such notice shall not invalidate any amendment or supplement.

16.9 Vote by Village Council

Within 20 days after such public hearing the Village Council shall either adopt or deny the recommendations of the Planning Commission or adopt some modification thereof. In the event the Trustees deny or modify the recommendation of the Planning Commission the unanimous vote of the Village Council shall be required.

16.10 Effective Date of Amendment of Supplement: Referendum

Such amendment or supplement adopted by the Village Council shall become effective in 30 days after the date of such adoption unless within 30 days after the adoption of the amendment or supplement there is presented to the Village Council a petition, signed by a number of qualified voters residing in the unincorporated area of the Village equal to not less than 8% of the total vote cast, for all candidates for in such area at the last preceding general election at which a governor was elected, requesting the Village Council to submit an amendment or supplement to the electors of such area for approval or rejection at the next primary, or general election.

16.11 Result of Referendum

No amendment or supplement for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters it shall take immediate effect.

16.12 Court of Common Pleas

Any person adversely affected by an order of the Village Council adopting, amending or recinding a regulation, may appeal to the Court of Common Pleas of Morrow County on the ground that said Board failed to comely with the law in adopting, amending, recinding, publishing or distributing such regulation, or that the regulation as adopted or

amended by the said Board is unreasonable or unlawful, or that the revision of the regulation was unreasonable or unlawful.

16.13 Fees

Each application for a zoning amendment except those initiated by the Zoning Commission, shall be accompanied by a check or cash payment sufficient in amount to cover the cost of the publishing, posting, and/or mailing the notices of the hearing or hearings required by the foregoing provisions.

ARTICLE XVII

LAND SUBDIVIDING AND DEVELOPMENT PROCEDURES

17.0 Purposes. Procedures are herein established for achieving effective, efficient and uniform administration of the subdivision of lands for the purposes of development, including:

A. Procedures by which a developer may obtain information, plan land developments, applications for review, record plat and construct land improvements;

B. Procedures by which the Planning Commission and Council may review, study, make recommendations, approve or modify or reject the plans and plats and otherwise administer these regulations; and

C. Procedures by which the construction of improvements are reviewed by the Planning Commission to assure that natural site assets such as existing trees and topsoil are preserved and necessary drainage is provided; that on- and off-site extensions of pavements and utilities are constructed; that the Village is assured that all required improvements are constructed for the entire project; and providing an enforcement procedure therefor.

17.1 Definitions.

A. Final plan. A preliminary plan which has been approved by the Village Council a final plan must show the total amount of development for entire parcel, whether contemplated to be completed in phases or not.

B. Original plat/tract. The map or site plan of the parcel or contiguous parcels as of the last preceding tax roll which is intended to be subdivided,

C. A site plan of the original plat, showing all lot lines, buildings, structures, uses, and improvements intended by the developer and including a narrative explanation of how the intended development complies with or should be permitted to partially comply with this Code. The preliminary plan may also include any other documentation required by this ordinance.

17.2 Minor subdivision: classification, application, review.

A. Classification. A division of land into two and not more than four parcels is hereby classified as a minor subdivision if it also comprises a division of a parcel along an existing public street not involving the opening, widening, or extension of any street or road.

B. Application. An application for approval for each minor subdivision including a scale plan of the land to be divided shall be filed by the developer with the Zoning Inspector. The Commission shall review the application at its next regularly scheduled meeting after receipt of all required information.

C. Review. The Commission shall review all information submitted with the application and shall determine if the following conditions are met:

1. Not more than four lots will be created and all the land in the original tract and all the continuous land owned by the developer would be completely subdivided; and

2. The scale plan is properly coordinated with adjoining developments and adjoining unplatted land; and

3. The scale plan complies with the planning criteria and other provisions of these regulations; and

4. The division is along an existing street and will not involve the opening, widening, or extension of any street or road.

If all of the above conditions are met, then the Commission shall approve the proposed subdivision as a minor subdivision. A notation of the action taken shall be made on the scale plan and deed by the Zoning Inspector and the developer shall be informed if a metes and bounds deed description of a plat will be required. If the Commission determines that the proposal does not qualify as a minor subdivision, the Commission may review the proposal at its next meeting as a major subdivision or the Commission may suggest revisions to the plan which would qualify it as a minor subdivision, if the developer expresses unwillingness to accept these revisions, the Commission may reject the subdivision application.

Minor subdivision: recording. After approval of the plan of a minor subdivision, the developer shall submit a conveyance with either a metes and bounds description or plat, as required by the Commission, to the Zoning Inspector for review, if he finds it complies with the approved scale plan and is otherwise satisfactory, he shall certify the approval thereon within 7 working days after receiving it. The approval shall expire 90 days thereafter unless the deed description or plat has been filed and recorded in the office of the County recorder and the Commission is so notified by the developer in writing.

17.3 Major subdivision: preliminary plan.

A. Classification. A division of land into more than four lots is hereby classified as a major subdivision; a major subdivision of land also includes any subdivision involving the opening, widening, or extension of any street or road, the outlays of land for open space for common use, or the granting of easements for the extension and maintenance of water supply, sewage disposal, or other public facilities in connection with the improvement of one or more parcels of land for residential or business development.

B. Application. An application for approval along with the appropriate number of copies of the preliminary plan, or alternate plans, complying with the planning criteria set forth in this Zoning Code shall be submitted to the Zoning Inspector for any proposed major subdivision. The purposes of the preliminary plan are to explore the best subdivision design and its relationship to adjoining developments or vacant land, to outline a program of land improvements and conservation and to obtain the suggestions and recommendations of the Commission before a final plan is prepared.

C. Planning Commission action. Whenever the Commission has received an application and all of the maps, drawings, data and plans as required have been received, the Zoning Inspector shall forward the application to the Planning Commission for placement on the agenda of its next regular meeting for a preliminary discussion, provided it is received in sufficient time to be accommodated on the agenda. At this meeting, the Commission shall set a date for a public hearing.

The Zoning Inspector shall refer one copy of the application to the Commission's planning consultants if there are any, who shall report as to compliance with all relevant regulations, standards, and criteria, as to coordination of the design with the natural features of the site and surrounding developments and as to conformance with the components of this ordinance. They shall also make recommendations for improvements to the design. These reports shall be furnished to the Commission within three weeks from the date received.

After the public hearing, the Commission shall consider the application at its next regular meeting, or within a mutually agreed upon time if the Commission, after evaluation of the preliminary plan and report of consultants, approves the preliminary plan, the Chairperson shall affix his signature to each copy of the plan with a notation of all conditions as the Commission may have deemed appropriate, and shall recommend the plan to Council for action. Council shall approve or disapprove the recommendation within 90 days. Upon approval, the Clerk of Council shall retain one copy, return one copy to the Commission, and return all other copies to the developer, if the Commission or Council disapprove the preliminary plan, it shall state in its records the reason or reasons for such disapproval. Property which is the subject of a major subdivision application which has been disapproved shall not be the subject of another subdivision application of any kind for a period of one year after the original filing of the application. A preliminary plan which has been approved, with or without modification, by Council is a final plan for purposes of this chapter. The developer is bound to the terms of

development contained within the final plan and is limited to development of a subdivided parcel as shown on the final plan. No additional development requests for that subdivided parcel will be considered by the Planning Commission or Council.

D. Authorization to Proceed. The approval of the preliminary plan by Council authorizes the developer to proceed with the preparation of the final plat and assures him that for a 6 month period from the date of such approval, that:

1. The layout of streets, lots, and other features of the plan may serve as the basis for the preparation of the final plat; and
2. Any conditions under which the approval of the plan was granted shall not be changed and that deviation from those conditions shall require a completely new application; and
3. The developer may submit a final plat and drawings and specifications for improvements for the whole or part of the subdivision.

17.4 Major subdivision: final plat.

A. Application. An application for approval of a final plat shall be filed with the Zoning Inspector within 6 months after authorization to proceed unless the Commission extends the time. The application shall include the original tracing of the final plat, the original tracing of the drawings for the required improvements, specifications, and other maps, data and any preliminary certificates required by this Code or otherwise.

The developer may apply for approval of the final plat and drawings and specifications of required and furnish a performance guarantee bond, a surety bonds or security in such form as may be approved by Council, in the amount of 100% of the estimate of all the improvements guaranteeing that he will install all of the improvements thereafter within 2 years of the approval of the final plat unless an extension of time is granted by Council. If the improvements are not installed according to the schedule set out above or approved by Council, Council may authorize the work to be completed and may proceed against the developer and its surety for reimbursement. Alternatively, the Council may elected to rescind the approval of the remaining plat, authorize the minimum work necessary to complete the improvements begun, and may proceed against the developer and its surety for reimbursement. Upon completion of the improvements, the developer may apply for final plat approval which shall be granted by Council if all terms and conditions have been met in full, if all of the terms and conditions have not been met, Council may extend the time for the developer to bring the improvements into compliance with the preliminary plan. Failure to meet the terms and conditions will result in the denial of approval for the final plat and the Village may take all actions necessary against the developer and its surety to correct the failure to meet the terms and conditions.

B. Approval or disapproval. The approval of the final plat shall be indicated by a certification to that effect on the original tracing of the plat with the signature of the mayor. A copy of the final plat shall be returned to the Commission. The approval of the drawings and specifications for the required improvements shall be indicated by a certification to that effect on the original drawings and specifications with the signature of the Village Engineer, or if none, the County Engineer, if the final plat is disapproved, Council shall state the reason for disapproval in its records.

C. Recording. The developer shall file the approved final plat in the office of the County recorder. The approval of the Council of the final plat shall expire within 30 days unless within that period the plat has been duly filed and recorded and the Council so notified by the developer in writing. No modifications of the final plat are permitted after final approval is given by Council.

D. Approval and recording. If drawings and specifications for improvements are approved and construction guaranteed, the final plat may be approved and recorded, construction of improvements started, building permits issued, and lots may be sold, leased or transferred.

17.5 Land for public and common use.

A. Dedication and acceptance for public use. The plat shall be submitted to Council for acceptance of dedication of any land for public use and acceptance of any easement before it is recorded. The acceptance of any street or utility for public use and maintenance, and assignment of street names, shall be by separate action of Council. Six months after the completion of the permit paving, but not sooner than June 1 of the year following the completion of the pavement, an inspection of all improvements installed by the developer shall be made by a committee of Council and the Village engineer. Any defects disclosed by this inspection shall be corrected by the developer at his expense. When the improvements installed by the developer are approved by Council, the developer shall file with the Village Solicitor an abstract, certificate of title, guarantee of title or title insurance in the amount of at least \$1000 showing the title to the street or streets in the subdivision of the Village to be good for street purposes and to be free and clear from all encumbrances whatsoever. Council shall then approve the plat for the dedication of such street areas, shall accept the streets as Village streets and release all related bonds.

B. Land reserves for public use. In addition to land for local streets which principally serve the subdivision, the Village may request by resolution that land for other streets, for parks, playgrounds, or other public uses as necessary, be set aside and preserved for a period of 120 days after the application for approval of a preliminary plan of a subdivision is submitted, or for a longer period as may be mutually agreed, to allow the Village time to start proceedings to acquire such land by gift, purchase, exchange, devise,

or appropriation. During such period, no structure shall be erected, no trees or topsoil shall be removed or destroyed, no grading shall be done, nor shall any land so reserved be put to any use whatsoever except on written approval of the Planning Commission. If no open land for a recreational or open and passive use is shown within a proposed subdivision, the developer shall be required to contribute a fee to a Village land acquisition fund. Required yards do not count towards the calculation of recreational or open and passive use dedications. Any required fees shall be in accordance with the following schedule:

TOTAL ACREAGE SUBDIVIDED	FEE PER ACRE (pro rata)
Less than 5 acres	\$300.00
5.01 to 20 acres	\$750.00
20.01 to 35 acres	\$1,200.00
35.01 to 50 acres	\$1,600.00
Greater than 50.01 acres	\$2,000.00

The funds accumulated in the land acquisition fund shall be used for the purpose of purchasing, whether outright or through eminent domain, nearby or adjacent vacant properties for the purpose of creating recreational or open and passive use lands.

C. Common land. Whenever a developer submits a plan showing common land either for recreation, streets, pedestrian circulation or other purposes, the covenants and restrictions of such land shall be submitted with the plans of the subdivision to the Planning Commission. The Commission shall not approve any common land unless such covenants and restrictions set forth that the common land shall be:

1. Used only for the uses set forth in the restrictions and covenants; and
2. Improved by the developer; and
3. Owned by a home association, condominium ownership, or similar private or non-profit organizations with owners of each dwelling unit having a share in the common land; and
4. Maintained at no cost to the Village with the owner of each dwelling unit and/or lot, or alternatively the organization, being responsible for his share of the maintenance cost, which share when not paid shall be a lien against the property. The Village Solicitor shall give his written approval of such covenants and restrictions as a precondition to acceptance by the Village or the Planning Commission.

17.6 Resubdivision and vacation. An application for resubdividing, replatting or vacation of any undeveloped, original subdivision or a part thereof, shall be made by the owner or owners to the Planning Commission in the same form as for an original subdivision proposal along with all required maps and other information. The original lots shall be shown and lot numbers and other references made to previously recorded

subdivisions. After a replatting or vacation is approved by the Commission, it shall be submitted to the clerk of common pleas court if required by Ohio Revised Code §711.17 et seq.

17.7 Developer responsible for required improvements. The developer of any subdivision shall provide and install at his expense the improvements required herein; or he shall provide financial guarantees in lieu of actual installation as precedents to the recording and sales of lots in the issuance of building permits and zoning certificate.

A. Improvements within the subdivision. Land for rights-of-way for all streets within the subdivision shall be dedicated by the developer, and all necessarily related easements shall be provided. Utilities and pavements shall be furnished and installed as hereinafter required and they shall be of such sizes and capacities as are required for the development of the proposed subdivision, and as may be necessary to serve adjacent undeveloped land which is an integral part of the service area. The developer shall be required to extend improvements to the boundary of the proposed subdivision to serve adjoining unsubdivided land. However, where the Planning Commission determines that a connecting street is necessary for the future subdividing of adjoining land, but the present construction of pavement and/or utilities therein are not warranted, the Commission may require the dedication of land for such connecting street and the pavement for the intersections constructed and connections to the utilities made available for future extension.

B. Off-site extensions. The construction of off-site improvements to serve a proposed subdivision may be required of a developer as a precedent to approval if adequate utilities or streets are not available at the boundary of the proposed subdivision, provided the Commission finds the extension of the improvements across undeveloped or unserved areas would not be warranted as a special assessment to the intervening properties or a municipal expense until some future date.

C. Grading. The developer shall prepare a grading plan for each subdivision in order to establish street grades, floor elevation of buildings and a system of drainage for private lots, all in proper relation to each other and to existing topography, as follows:

1. Grading of block. The grading plan shall be established with the intention of meeting the following purposes: to divert water away from buildings; to prevent standing water and soil saturation detrimental to buildings and the use of the lot; to provide for disposal of water from the lot except that which should be retained for irrigation, to preserve desirable and valuable site features; and to provide grades for safe and convenient access to and around buildings and the lot for their use and maintenance.

2. The finished grading shall be designed in accordance with all relevant state provisions, if any. The grading of the roadway shall extend the full width of the right-of-way except in rolling topography. Tree lawns should be graded at a gradient of not less than 2% or more than 4% upward between the curb and the sidewalk or property line.

3. The floor elevation of each building shall be established in proper relation to the surrounding grades, to the driveway and the street. There should be a minimum grade of 2% around each building so that water drains to lower areas or drainage swales which shall have a minimum grade of .5%. The lot drainage system shall be designed so that surface water will drain onto the driveway, a drainage structure on the lot, a street gutter and storm sewer, or a natural drainageway. The minimum grades of impervious surface driveways shall be .5%; the maximum shall be 12%. Grading should be adjusted so there will be no abrupt grades in the front yards and along side lot lines. The grades of earth terraces shall not exceed a 2 1/2 to 1 slope. If a masonry retaining wall exceeds 3 feet in height, a hedge, fence, or railing shall be provided on its top.

4. The topsoil shall be stripped from the roadway and construction areas, piled separately and not removed from the site or used as spoil. The Planning Commission may require that as many trees as can be reasonably utilized in the final development plan be retained, and that grading be adjusted to the existing grade around the trees.

D. Drainage facilities. A drainage system shall be designed and constructed by the developer, in any district in which the proposed subdivision is located, for the proper drainage of the surface water of the subdivision and each lot as follows:

1. Enclosed storm sewer. An enclosed storm sewer system shall be provided and connected to an existing storm sewer system, drainage ditch or other waterway, as determined by the Village Engineer. The system shall have a capacity to serve the subdivision and drainage area of which it is a part. The system shall include pipes, culverts, manholes, catch basins, drain inlets and a connection for each lot

2. Open drainage system. Subject to the approval of the Planning Commission, the developer may rechannel drainage to any water course through his property in order to contain the storm drain flow. The developer may be required to deed in fee, dedicate or grant an easement to the Village for a drainage channel not less in width than required by a plan or standards adopted by the Village or as directed by the Village Engineer. The developer shall be responsible for clearing the drainage way of all debris as a condition of acceptance of this method of drainage. The Village Engineer shall determine the proper cross-section, grade, width of channel and alignment of the open drainage system.

3. Design standards. The drainage system shall be designed in accordance with the standards of the Morrow County Sanitary Engineering Department. The design of storm frequency shall be for 5 years (for single- and two-family uses) or 10 years (for all other uses). During any 2-year storm, post-development stormwater discharge shall not exceed pre-development stormwater discharge.

4. Acceptance of storm and sanitary sewers. Prior to final approval of any newly installed sewer system and/or reconstructed sewer, the contractor constructing such sewer or the developer of the subdivision in which the system was installed shall cause to be made at his expense one set of photographs of the entire sewer system installed, both sanitary and drainage, at the completion of all mains, showing thereby that the sewer

system was constructed upon sound engineering standards and that the system is free of any and all accumulations of foreign substances and debris and that the passage and flow of sewage and storm water will be free and clear. Upon inspection of such photographs, and if satisfied that such sewer is free and clear of all foreign substances and debris and is of sound workmanship and complies with sound engineering standards, the Village Engineer is thereupon authorized to approve the same as a final inspection, placing in safe keeping for future reference all photographs which shall remain the property of the Village.

E. Sanitary Sewers. Sanitary sewers shall be designed in accordance with the master sewer plan of the Village and shall be constructed by the developer of each proposed subdivision or development; a house connection shall be provided for each lot. The sanitary system shall be designed and constructed in accordance with such regulations and standards as may be established by the Village Engineer and/or the Morrow County Sanitary Engineering Department. Final approval shall be made according to the process found in paragraph D, above.

F. Water Service. A public water distribution system shall be designed and constructed by the developer of each subdivision or development and a supply shall be provided for each lot. The water distribution system shall be designed and constructed in accordance with the rules and standards which may be established by the Village Engineer and/or the Morrow County Water Department.

G. Utility service. All utilities, including gas, electric, cable, and telephone services shall be located underground. The electrical contractor for the subdivision developer shall install code approved galvanized conduit of rigid type at a minimum burial depth of 24 inches below the finished grade. The initial backfill shall be a minimum depth of 12 inches of sand. The conduit shall run from the grade level connection chamber to the meter socket and shall conform to any specifications of the servicing electric company. Galvanized conduits of a rigid type shall be used for all bends and connections. The electrical contractor shall also install in a like manner conduit to service telephone lines from the telephone company roadway ground connection to the telephone entrance ell. The installation shall conform to the specifications of the telephone company.

H. Gas fuel service. The developer shall submit plans for a gas fuel distribution system for the proposed subdivision or development and a supply line shall be provided for each lot. The gas system shall be designed and constructed in accordance with the rules and standards of the federal Department of Transportation.

I. Pavement, curbs, and sidewalks. The pavement; curbs and sidewalks shall be designed and constructed by the developer according to the following standards:

1. Pavement. For all pavement constructed in accordance with this section, the width of the pavement shall be measured between the vertical faces of straight curbs and the outside edges of rolled curbs. The materials and the construction shall be in accordance with the "Material Specifications" of the State Department of Transportation. The

pavement requirements may be modified if found necessary by the Engineer and if approved by the Planning Commission in advance of installation, because of extraordinary traffic loads or unusual soil conditions in specific locations. After the underground utilities and house connections are installed and backfilled, and rough grading completed, the roadway subgrade shall be shaped, rolled and compacted. In subdivisions already under construction and approved for concrete streets and those planned which are continuations or extensions of existing concrete streets, the developer shall construct the final pavement of reinforced concrete with integral curbs, or the developer may request to construct a temporary pavement of slag or stone for use during the building construction period and furnish a cash bond of at least 25% of the amount of the performance bond or in other amounts mutual agreed to, guaranteeing that all pavements shall be maintained in a passable and reasonable condition and rebuilt as necessary to comply with the standards of the Village at the completion of the construction of the buildings and without expense to the Village, until final acceptance of final pavement for maintenance and use. Otherwise, in all other developments, the developer shall construct asphalt pavement for roadways. In subdivisions where the topography is undulating such that lot grades shall create difficulties in construction, then the developer may elect to construct an asphalt pavement with flush curbs and no gutters, provided that the Engineer has approved such installation in advance.

2. Curbs and gutters. Where required by this section, concrete roll curbs integral with the pavement shall be constructed. Straight curbs may be provided at intersections where rolled curbs are used elsewhere.

3. Driveways and curb cuts. Driveways and curb cuts should be located along the lowest side of the lot, not less than three feet from the side lot line or another driveway, unless two driveways are to be combined into a shared driveway. Shared driveways or service drives are encouraged; recorded easements for such elements are required. Developments using shared driveways or service drives may reduce the required sideyards by one-half(1/2). Driveways shall be not less than 8 feet and not more than 16 feet wide. Curb cuts or straight curbs and the flare for rolled curbs of driveways shall be 3 to 5 feet wider than the driveway on each side; the driveway grade of the apron shall not exceed 3% from the edge of the pavement to the property line and the maximum grade of the on-site driveway shall not exceed 10%.

4. Parking areas. The design of off-street parking areas and their service driveways shall be in accordance with the standards set forth in section 9.7.

5. Public sidewalks. In all subdivision developments, sidewalks shall be constructed contemporaneously with street construction. The developer shall grade the tree awns on both sides of the street between the curb and the sidewalk. A developer may seek a waiver of the requirement to construct sidewalks contemporaneously from the Planning Commission; such a waiver shall require the installation of sidewalks upon the sale of 51% of the lots or units in the subdivision or within 2 years from the time when the development was first opened for sale, whichever occurs first. Sidewalks shall be located in the public right-of-way so that the inner line is approximately 6 inches from the

property line. On corner lots, each sidewalk shall be extended to the curb. Sidewalks shall be not less than 3.5 feet wide and no more than 5.5 feet wide. Sidewalks shall be constructed of concrete 4 inches thick or gravel and shall link directly with the nearest existing Village sidewalk.

J. Street trees. The developer shall select and install deciduous trees to be planted along the tree lawn of all developments. Trees shall be planted on the tree lawn at an interval of no less than 50 feet. Tree species should be selected with such habit of growth that they shall fill the space desired within a reasonable time, producing a pleasing effect in scale with the adjacent developments. Miniature tree species should not be used in tree lawn planting. Trees of untried species, or unknown endurance or those requiring frequent spraying should not be used. Trees generally recommended along streets are Red Maple, Norway Maple, Sugar Maple, Red Oak, White Oak, Thornless Honey Locust, London Plane, Amur Cork and Sweet Gum. Trees which have undesirable characteristics such as excessively thick foliage, low branches, unpleasant odors, susceptibility to disease or attack by insects or which have large root systems shall not be planted in any tree lawn; some of these include, but are not limited to, Poplar, Willow, Cottonwood, American Elm, nut or fruit trees, Ailanthus, Mountain Ash and Oregon Maple.

K. Design Standards for required improvements. The design of the water system, storm and sanitary sewage systems and roadways, the grading of the subdivision and each lot shall be in accord with the various aforesaid standards and requirements. Drawings and specifications for the improvements shall be reviewed and approved by the Village Engineer and the installation shall be subject to his continuous inspection. At the completion of construction, and before acceptance, the developer shall furnish the Village with a set of records or "as-built" tracings showing the locations, size, and elevations of all underground utilities.

17.8 Performance guarantee in lieu of installation of improvements. Concurrently with the application for approval of the final plat, the developer may execute and file with the Village a performance bond, secured as hereinafter required, in lieu of actual installation or completion of required improvements.

A. Form of bond. The performance bond shall be conditioned upon proper installation of all improvements required by the codified ordinances of the Village, according to the approved plans and specifications, within two years after approval by the Planning Commission or Council of the final plat of the subdivision, and shall provide that the Village shall have the right, in the event of default, to install the required improvements after first giving 10 days written notice to the developer, to proceed against the developer and against any surety on the bond for the cost thereof and to apply to the cost of such improvements any funds deposited with the Village in escrow as security for performance of the conditions of the bond. The bond shall further provide that the developer shall hold harmless the Village, its agencies, officers and employees from all claim, demands, and causes of action of every nature and description arising out of the installation of improvements within the developer's subdivision, conditions existing during the construction of installation of such improvements and all damages to

neighboring property owners resulting from approval of the developer's subdivision by the Village and the installation of improvements therein, including, without limitation, damages resulting from increase in surface water flowing from the subdivision and all claims arising out of changes to natural ditches or drainage courses. The terms "claim, demands, and causes of action," shall include all expenses of defending against such claims, demands and causes of action, including fees payable to attorneys and expert witnesses, wages paid to Village employees while occupied in defense of such claims, demands and causes of actions and wages or salaries reimbursed by the Village to Village officers to compensate them for wages and salaries lost while engaged in such defense. The form of each performance bond shall be approved in writing by the Village Solicitor.

B. Security for bond. Performance bonds shall be secured by 1) the written guarantee of one or more surety companies authorized to conduct business within the State of Ohio. The form of guarantee shall be approved in writing by the Village Solicitor. The Solicitor may reject a performance bond in the event that he reasonably determines that the assets of the surety company or companies, subject to attachment within the State of Ohio, are insufficient to secure performance of the developer's obligations, taking into account other outstanding liabilities and contingent liabilities of the surety company or companies; or 2) by deposit of cash in the full face value of the bond, with the Village or with an escrow agent or trustee. In the event funds are deposited with an escrow agent or trustee, all documents or instruments governing the terms of such deposit shall be approved in writing by the Solicitor.

C. Amount of bond. The amount of performance bonds shall be determined by the Village engineer and shall be in an amount equal to the estimated total cost of materials and labor required to install or construct all improvements required by this ordinance, including the estimated cost of repairing or reconstructing public improvements outside the subdivision which may be damaged by construction activity. The amount of a performance bond shall also include estimated damages, if any, to neighboring properties which are the subject of the hold harmless provision contained in subsection A. above, and the estimated costs of defending against claims for any such damages.

D. Reduction of bond and return of security. When the engineer shall have certified in writing that all subdivision improvements have been satisfactorily completed in accordance with approved plans and specifications, the performance bond submitted by the developer shall be canceled and all funds deposited as security therefor shall be returned. Upon written certification by the engineer that any portion of the improvements has, upon inspection, been found satisfactorily completed, a reduction in the amount of bond or partial withdrawal of funds deposited as security therefor, equal to the cost of such completed improvements, as estimated by the engineer, may be authorized by the engineer if, in the opinion of the engineer the remaining bond or security shall be fully sufficient, under all circumstances, to guarantee performance of the conditions of the bond. In the event that the developer shall have been required to post a maintenance bond for the same subdivision, pursuant to the requirements of this Chapter, the Village may retain so much of the funds posted as security for the developer's performance bond as

may, in the judgment of the engineer, be necessary to provide adequate security for the performance of the conditions of the developer's maintenance bond.

17.9 Certification of completion maintenance bond.

A. Certification of completion. With respect to all improvements which have been installed by the - developer prior to the granting of final approval of the subdivision, the engineer shall furnish to the Planning Commission, at the time that the request is made for final approval, a certification that all such improvements have been constructed and installed according to the approved plans therefor, and are ready for use and that they have been approved by the various agencies whose approval is required.

B. Maintenance bond. The developer shall furnish to the Village a maintenance bond in the amount of the total cost of all improvements which have been installed. This bond shall be conditioned on the proper operation of these improvements for a period of 3 years from the date of the granting of the final approval. The bond shall provide that the Village shall be held harmless and free of tort and contract claims of third persons, with the right given to the Village to effect any necessary repair or correction of these improvements during such 3 year period and hold the principal and surety jointly and severally liable on the bond. Before the Village exercises its right to effect any necessary repairs or correction to the required improvements during such 3 year period it shall first give a 10 day written notice to the developer of its intention to do so. The developer may elect to make the necessary repairs or corrections during that time and give notice to the Village of completion thereto.

17.10 Insurance. The developer agrees to indemnify and hold harmless the Village against and from any and all loss, cost, damage, liability, and expense on account of damages to property of, or injury to or death of, the Village and any of its employees, agents or representatives or any third person, caused by, growing out of or in any way whatsoever attributable to the construction of the improvements and the use of the street delineated on the subdivision plat during construction. The developer further agrees, but without limiting its liability, to indemnify the Village to carry liability insurance contracts with any insurance company or companies acceptable to the Clerk of Council during the period of construction in the sum of between \$100,000 and \$200,000 for injury to or death of persons, and in the sum of \$5000 for damage to or destruction of property, which insurance contracts shall include the Village as a named insured. The developer agrees to maintain on file with the Village during the period of the construction, certificates or memorandum of insurance evidencing that the insurance contracts are in force. As a precondition to installation of the required improvements, the developer shall place his agreement to these conditions in writing which shall be filed with the insurance records with the Village.

ARTICLE XVIII

VALIDITY AND REPEAL

18.0 Validity

This Resolution and the various Parts, Articles, and Paragraphs thereof are hereby declared to be severable. If any article, section, subsection, paragraph, sentence or phrase of this Resolution IS adjudged unconstitutional or invalid by any court of competent jurisdictions the remainder of this Resolution shall not be affected thereby.

18.1 Authentication

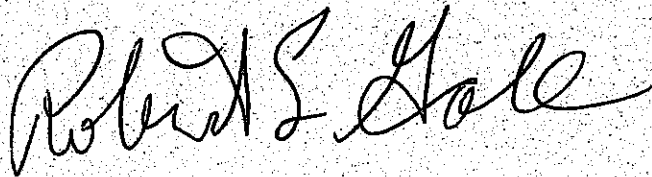
The Village Clerk of Marengo is hereby ordered and directed to certify to the passage of this Resolution. This Resolution shall be in effect and be in force from and after its passage, approval and publication.

18.2 Repeal

All other Resolutions of the Village, inconsistent herewith and to the extent of such inconsistency and no further, are hereby repealed.

Adopted this 13th day of May, 2010

S/Robert Gale
Mayor



Village Council of Marengo, Morrow County

Attest: S/Ginny West
(Clerk)



