

ARTICLE 20

HEAVY INDUSTRIAL (I-2)

20.0 Statement of Purpose

The I-3 District is to permit certain industrial uses to locate in desirable areas of the Village, which uses are primarily of a manufacturing, assembling and fabricating character, including large scale or specialized industrial operations requiring good access by road and/or railroad, and needing special sites or public utility services. Reasonable regulations apply to uses in this District, so as to permit the location of industries which will not cause adverse effects on residential and commercial areas in the Township.

20.1 Principal Permitted Uses

The following provisions apply in all I-3 Districts. In an I-3 District, no person shall hereafter use any building or structure except in accordance with the following provisions:

1. Light, medium and heavy industrial uses including manufacturing, processing, metal stamping and automobile and truck assembly.
2. Cleaning and dyeing plants.
3. Underground bulk liquid storage.
4. Transport terminals, including railway yards.
5. Recycling depots and recycling operations.
6. Concrete and paving establishments.
7. Building or contracting yards.
8. Industrially oriented offices.
9. Material storage facilities.
10. Warehousing.
11. Retail sales outlets accessory to the main use.
12. Equipment repair and servicing shops.
13. Machine shops.

20.2 Site and Landscape Plan Review

For all uses permitted in the I-2 District, a site plan shall be submitted to the Planning Commission for its review and recommendations. The Commission in its review of the site plan, shall have regard to the provisions of Section 24.19. The Board may require certain modifications in terms of the location of buildings, parking and driveways and may require screening and landscaping techniques to ameliorate potential nuisance problems with adjoining districts or uses or to lessen the transmission of noise from the public street system.

20.3 Screening/Buffering

Screening or buffering in compliance with the provisions of Article 24. A minimum of a 200' buffer shall be provided adjacent to Residential Districts.

20.4 Development Standards

Minimum lot area: 3 acres
Minimum lot width: 200'
Minimum front yard: 80'
Minimum rear yard: 50'
Minimum side yard: 30'
Maximum height: 50'

20.5 Required Parking

As specified in Article 26.

20.6 Signs

As specified in Article 27.

20.7 Accessory Buildings

1. No accessory building shall be used for human habitation.
2. No accessory building shall be located between the street line and any setback line established by this by-law.
3. No accessory building shall be located in any side yard required by this resolution.
4. No accessory building shall be located within two (2) feet of any lot line, except that two adjoining property owners may erect accessory buildings with a common party wall.
5. No accessory building shall cover more than ten (10) percent of the lot area.

20.8 Industrial Performance Standards

1. Noise: Shall be muffled so as not to become objectionable due to intermittence, beat frequency, or shrillness.
2. Odor: The emission of obnoxious odors of any kind shall not be permitted.
3. Gases, Smoke, Dust, Dirt and Fly Ash: The emission of gases, smoke, dust, dirt and fly ash shall in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformity with all applicable State and County health laws as pertaining to air pollution and smoke abatement.

4. Fire and Safety Hazards: The storage and handling of flammable liquids, liquefied petroleum gases and explosives, shall comply with all regulations of the Township Fire Department and with all State rules and regulations. Further, all storage tanks for flammable liquid materials above ground shall be located not less than one hundred and fifty (150) feet from all property lines, and shall be completely surrounded by earth embankments, dikes or other type of retaining wall which will contain the total capacity of all tanks so enclosed. Bulk storage tanks of flammable liquids below ground shall be located not closer to the property line than the greatest depth to the bottom of the buried tank.
5. Open Storage: All storage of building materials, sand, gravel, stone, lumber, equipment and other supplies, shall be located within an area not closer than one hundred and fifty (150) feet from any street right-of way line. The storage of lumber, coal or other combustible material shall not be less than twenty (20) feet from any interior lot line, and a roadway shall be provided, graded, surfaced and maintained from the street to the rear of the property to permit free access of fire trucks at any time. All such open storage shall be screened from all streets, and on all sides which abut any residential districts, by a solid eight (8) foot masonry wall sufficient to serve as a permanent retaining wall. Junk yards, when permitted, shall be entirely enclosed on all sides by said wall.

ARTICLE 21

MINERAL AGGREGATE DISTRICT (MG)

21.0 Statement of Purpose

It is the intent of this District to ensure the orderly extraction of mineral aggregate resources while minimizing the negative environmental, social and aesthetic impacts of mineral extraction.

The Mineral Aggregate District and regulations are established in order to achieve, among others, the following purposes:

1. To provide Quarrying District in appropriate areas for the removal of natural resources; and
2. To protect adjacent residential areas by establishing yards and buffer areas at the boundaries; and
3. To regulate the noise, vibration, dust, explosions, and other objectionable influences so as not to endanger the health and safety of the surrounding neighborhoods.

For the purposes of this Ordinance, the following definitions apply:

- (a) mineral aggregates shall mean top soil, subsoil, sand, gravel, shale, limestone, dolostone, sandstone and other mineral materials suitable for construction, industrial, manufacturing and maintenance purposes, but does not include metalliferous minerals, fossil fuels, or nonaggregate industrial minerals; and,
- (b) borrow pits refer to extraction areas used to supply mineral aggregates on a temporary basis for uses in public projects and operated by public authorities or their agents.

21.1 Principal Permitted Uses

1. Mineral aggregate extraction and uses accessory to mineral aggregate extraction such as crushing, screening, washing and stockpiling of mineral aggregates.

21.2 Conditionally Permitted Uses

Conditional uses may be permitted by the Board of Appeals pursuant to Article 9 and other subject further to the terms and conditions herein provided:

1. Asphalt plants, ready-mix concrete plants, aggregate transfer stations and similar related uses subject to the following:

- a. Such aggregate uses shall be adequately buffered to protect adjacent land uses and shall meet the industrial pollution control standards and any other standards of the authorities having jurisdiction.
- b. Production of the principal product or operation of accessory plants shall not be permitted less than three hundred and fifty (350) feet from a residential district.

21.3 Performance Standards

Uses permitted by this Article shall be subject to and in conformance with Ohio Revised Code Section 1514.02. A copy of the surface mining permit application required by Ohio Revised Code Section 1514.01(A) and any amendments thereto proposed by the State of Ohio or applicant shall be provided as a site plan for the surface mining operation. In addition to the requirements stipulated in Ohio Revised Code Section 1514.01(A), the following regulations shall apply to all operations covered under this Article.

1. Noise

- a. All blasting and quarrying operations (except loading) shall be limited between the hours of 6 o'clock a.m. and 8 o'clock p.m., except in emergencies.

2. Air Pollution

- a. Control measures shall be implemented on a continuing basis, during times of operation, to control dust on entrance roadways, in equipment operation, and throughout the mining site. The Zoning Inspector may require additional control measures during periods of high wind or very dry weather.

3. Visual Impact

Ten (10) foot high screens shall be established to minimize the visual impact of the active mining or processing area from adjacent public road right-of-way except in those instances where prohibited by other governmental rules and/or regulations or where deemed to be impractical by the Zoning Inspector. Screens formed of over-burden or topsoil saved for future reclamation may be placed in the setback area (24.03-8) provided appropriate vegetative cover is established.

4. Transportation

- a. Points of ingress and egress associated with extraction and/or processing sites shall be located as approved by the County Engineer or the Ohio Department of Transportation as appropriate.
- b. The applicant shall include with his submittal a map describing the proposed major access roads to be utilized for ingress and egress for the extraction operation.

5. Surface Water

- a. The hydrographs and quality of water leaving the site of an extraction activity meet the Ohio EPA standards.
- b. During mining and reclamation, drainage shall be controlled so as to prevent the causing of flooding, landslides and flood hazards to adjoining lands resulting from the mining operations. Upon completion of mining, ponds shall be left in such condition as to avoid their constituting a hazard to the adjoining lands.

6. Groundwater

- a. During mining and reclamation, contamination of underground water supplies shall be prevented. Backfilling or grading of any nature up to a level of ten (10) feet above the water level shall be accomplished with materials approved by the Zoning Inspector and the Ohio Environmental Protection Agency. Materials contaminating to groundwater shall not be used for filling or grading at any time. Upon completion of reclamation, any lake or pond located within the site boundaries shall be of quality equal to that existing for groundwater on adjacent property.
- b. The storage of fuels and chemicals and equipment service facilities required by uses permitted in Section 26.1 shall be located where they are least likely to contaminate groundwater as determined by the Zoning Inspector.

7. Vibration and Blasting

- a. The operation of stationary and mobile equipment shall not cause vibrations in excess of that permitted by applicable federal and state law.
- b. Blasting shall be done in accordance with the applicable laws of the State of Ohio, and shall be carried out by persons certified to be knowledgeable and competent in the sizing and placing of the explosive to be used for blasting.
- c. When the blasting area is within 1,000 feet to an existing residential structure the maximum hours of blasting operation shall be sunrise to sunset.

8. Slope Stability

- a. The sides of excavation sites shall be set back a minimum of 50 feet from the property line with a sufficient slope of excavation to insure the lateral support of surrounding property with the following provisions:
 - a) The reclaimed sides of excavation sites shall be set back a minimum of 50 feet from the right-of-way of all public streets or roads.
 - b) Final slopes shall be graded, contoured or terraced,

wherever needed, sufficient to achieve soil stability and control landslides, erosion and sedimentation. Highwalls will be permitted if they are compatible with the future use specified in the site plan and measures taken to insure public safety. Where ponds, impoundments, or other resulting bodies of water are intended for recreational use, banks and slopes shall be established that will assure safe access to such bodies of water. Where such bodies of water are not intended for recreation, measures to insure public safety shall be included, and one egress provided.

9. Soil Erosion Sedimentation Control

- a. The area of land affected shall be resoiled, wherever needed, with topsoil or suitable subsoil, fertilizer, lime or soil amendments, as appropriate, in sufficient quantity and depth to raise and maintain a diverse growth of vegetation adequate to bind the soil and control soil erosion and sedimentation.

A diverse vegetative cover of grass and legumes or trees, grasses and legumes capable of self-regeneration and plant succession wherever required by the site plan shall be established.

10. Other Requirements

- a. Government boundary, section corner and other government survey monuments that were removed by the operator as a result of the mining shall be replaced where practical.
- b. Mining and reclamation shall be carried out in the sequence and manner set forth in the site plan and reclamation measures shall be performed in a timely manner. All reclamation of an area of land affected shall be completed no later than three years following the active mining of such area, unless a showing satisfactory to the Zoning Board of Appeals is made that the future use of such area requires a longer period for completing reclamation.
- c. During mining, store topsoil or fill in quantities sufficient to complete the backfilling, grading, contouring, terracing and resoiling that is specified in the plan. Stabilize the slopes of and plant each spoil bank to control soil erosion and sedimentation wherever substantial damage to adjoining property might occur.

21.4 Amendments to the Ordinance

1. In considering applications to amend this Ordinance to designate an area as Mineral Aggregate Extraction, consideration shall be given to the following:

- (a) the impact on adjacent land uses and residents;
- (b) the impact on the physical environment;
- (c) the capabilities of the subject lands for agriculture and other land uses;
- (d) the impact on the transportation system;
- (e) the need for additional mineral aggregates;
- (f) the possible effect on the water table or surface drainage pattern;
- (g) the manner in which the operation will be carried out;
- (h) the nature of reclamation work that is proposed; and
- (i) such other matters as the Village deems necessary.

2. Applications to amend this Ordinance in order to designate an area as Mineral Aggregate Extraction shall be accompanied by the following information:

- (a) the location, true shape, topography, contours, dimensions, area and description of the lands proposed as a new area of mineral aggregate extraction or the area proposed for expansion of an existing area of aggregate extraction;
- (b) the use of all land and the location and use of all buildings and structures lying within a distance of 500 feet of any of the boundaries of the lands set aside for the purposes of the operation;
- (c) the pattern, quality and estimated quantity of the mineral aggregate resources within the property;
- (d) the location, height, dimensions and use of all existing or proposed buildings or structures;
- (e) existing and anticipated final grades of excavation, contours where necessary and excavation setbacks;
- (f) engineering plans showing the proposed drainage system;
- (g) proposed entrances, exits and routes to be used by gravel trucks;
- (h) to the extent possible, plans showing the ultimate area of aggregate extraction, progressive and ultimate road plan, any water diversion of storage facilities, location of stockpiles for stripping and products, tree screening and berming, progressive and ultimate rehabilitation and, where possible, intended use and ownership of the land after aggregate extraction has ceased;
- (i) the extent of adjacent property holdings intended for future mineral aggregate extraction;
- (j) additional information such as hydrology, wildlife, vegetation or soil studies which may be required due to special concerns related to a specific site; and
- (k) any other information as deemed necessary by the Village.

21.5 Site and Landscape Plan Review

For all uses permitted in the MG District, a site plan shall be submitted to the Zoning Board of Appeals for its review and recommendations. The Board of Appeals in its review of the site plan, shall have regard to the provisions of Section 30.21. The Board may require certain modifications in terms of the location of buildings, parking and driveways and may require screening and landscaping techniques to ameliorate potential nuisance problems with adjoining districts or uses or to lessen the transmission of noise from the public street system. The information as required by Section 26.3 (2) must be submitted with the site plan/ A site plan must be submitted in accordance with the provisions of Article 29.

21.6 Screening/Buffering

Screening or buffering in compliance with the provisions of Article 24, Section 24.18.

21.7 Development Standards

1. Every main or accessory building shall be set back at least 75 feet from a public road.
2. Production of principal product or operation of accessory plants, shall not be permitted less than 350 feet from a residential district.

21.8 Required Parking

As specified in Article 26.

21.9 Signs

As specified in Article 27.

21.10 Accessory Buildings

1. No accessory building shall be located between the street line and any setback line established by this by-law.
2. No accessory building shall be located in any side yard required by this Ordinance.
3. No accessory building shall be located within two (2) feet of any lot line, except that two adjoining property owners may erect accessory buildings with a common party wall.
4. No accessory building shall cover more than ten (10) percent of the lot area.

ARTICLE 22

PLANNED UNIT DEVELOPMENT REGULATIONS

22.1 Planned Unit Development Regulations

Article 22 of this Ordinance shall apply to the location and maintenance of Planned Unit Developments as herein defined.

22.2 Statement of Purpose

It is the responsibility of these Sections to promote the public health, safety and welfare by providing for the regulation of planned unit developments. It is the intent of these regulations to provide maximum opportunity for orderly developments which benefit the community as a whole by offering a greater choice of living environments, a wider range of development plans featuring more complementary blending of land uses, to include community facilities and open space, and a more unified approach with respect to the mixture of uses and their adaptation to topographical and geological features, recreational opportunities and transportation needs.

22.3 Definition

"Planned Unit Development" or PUD shall mean a development which may integrate residential, commercial and industrial facilities in a pre-planned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations. The procedure for approval of such development contains additional requirements such as building design principles and landscaping plans.

22.4 Interpretation

Whenever the requirements of Article 22 appear to be in conflict with other Sections of this Ordinance or with those of other existing ordinances, the provisions of these Sections shall prevail.

22.5 PUD District Designation

Subsequent to the review of the Village Council, the designation "Planned Unit Development District" may be applied to any residential, commercial or industrial developments. Upon approval of the final development plan, the Official Zoning Map shall be so amended. The designation shall only apply to property at the election of the property owner and any such shall not be subject to referendum.

22.6 Uses Permitted in a PUD District

Residential, commercial, manufacturing, public and quasi-public uses may be separate or combined in PUD districts, provided that the proposed location of the commercial or manufacturing uses will not adversely impact upon adjacent property or the public health, safety and general welfare, and that the location of such uses are specified in the final development plan. The Planned Unit Development may be comprised of one use or a combination of uses, as indicated above. There is no minimum area required for a Planned Unit Development.

The amount of land devoted to commercial and/or manufacturing use in a residential-commercial-manufacturing or residential-commercial development shall be determined by the Planning Commission and approved by the Village Council.

22.7 Disposition of Open Space

The required amount of common space land reserved under a planned unit development shall either be held in corporate ownership by owners of the project area, for the use of each owner who buys property within the development, or be dedicated to a property owners' association who shall have title to the land which shall be retained as common open space for parks, recreation and related uses. The legal articles relating the organization of the property owners' association is subject to review and approval by the Village Planning Commission and shall provide adequate provisions for the perpetual care and maintenance of all common areas. Public utility and similar easements and right-of-ways for water courses and other similar channels are not acceptable for common open space dedication unless such land or right-of-way is usable as a trail or similar purpose and has been approved by the Commission. The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development.

The Commission in conjunction with the Village Council may require land to the amount of three percent (3%) of the land included in the planned unit development be conveyed to the Village for park purposes. In lieu of the conveyance for park purposes, the Commission may in conjunction with the Village Council, require the subdivider to pay \$100.00 per unit in the PUD to be used for improvements to park land in the immediate area. The terms and amount of payment shall be determined in negotiation between the subdivider and the Village Council.

22.8 Utility Requirements

Underground utilities, including telephone, cable television and electrical systems, are required within the limits of all planned unit developments. Appurtenances to these systems which can be effectively screened may be exempted from this requirement if the Commission finds that such exemption will not violate the intent or character of the proposed planned unit development.

22.9 Special PUD Lot Requirements

The lot requirements for planned unit development approved by the Commission may vary from requirements of the districts included in this Zoning Ordinance.

22.10 Arrangement of Commercial/Manufacturing Uses

When planned unit development districts include commercial and/or industrial uses, buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with streets. Planting screens or fences shall be provided on the perimeter of the commercial and/or manufacturing areas. The plan of the project shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding areas.

All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by the Commission.

22.11 Procedure for Approval of Planned Unit Development Districts

Planned unit development districts shall be approved in accordance with the procedure in Sections 27.11 to 22.33. The designation of major PUD will be considered a change of zoning and must meet all the applicable provisions of the Zoning Ordinance.

22.12 Pre-Application Meeting

The developer shall meet with the Zoning Inspector prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this Ordinance and the criteria and standards contained herein, and to familiarize the developer with zoning and other applicable regulations.

22.13 Preliminary Development Plan Application Requirements

An application for preliminary planned unit development approval shall be filed with the Zoning Inspector, as representative for the Planning Commission, by at least one owner of property for which the planned unit development is proposed. The procedure for approval shall be the same as an amendment to the Zoning Ordinance, as detailed in Article 8. At a minimum, the application shall contain the following information filed in triplicate:

1. Name, address and phone number of applicant;
2. Name, address and phone number of registered surveyor, registered engineer and/or urban planner assisting in the preparation of the preliminary development plan;
3. Legal description of property;
4. Present uses(s);
5. Present and proposed zoning district;
6. Identification of any area within a floodplain;
7. A vicinity map at a scale approved by the Zoning Administrator showing the property lines, streets, existing and the proposed zoning and such other items as the Zoning Administrator may require;
8. A preliminary development plan at a scale of 1"=20' showing topography at ten (10) foot intervals; location and type of residential, commercial and industrial land uses; layout and dimensions and names of existing and proposed streets; right-of-way, utility easements, parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvement drawings showing water, sewer, drainage, electricity, telephone and natural gas; and such other characteristics as the Commission may deem necessary; general location of buildings;
9. Proposed schedule for the development of the site;
10. Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within two years.
11. A fee as established by Resolution;
12. A list containing the names and mailing addresses of all owners of property within 500 feet of the property in question;

13. Verification by at least one owner of property that all information in the application is true and correct to the best of his knowledge.

The application for preliminary planned unit development shall be accompanied by a written statement by the developer setting forth the reasons why, in his opinion, the planned unit development would be in the public interest and would be consistent with the stated intent of these planned unit development requirements.

22.14 Village Planning Commission Public Hearing

The Planning Commission shall schedule a public hearing on the application for approval of the preliminary development plan not less than twenty (20) or more than forty (40) days from the date of filing such an application.

22.15 Notice of Public Hearing

Before holding the public hearing, notice of such Commission hearing shall be given in one or more newspapers of general circulation at least fifteen (15) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, a general description of the planned unit development, and a statement that, after the public hearing and submission of a final development plan, the matter will be referred to the Village Council for further determination.

Also before holding the public hearing, written notice of such hearing shall be sent by the Planning Commission by first class mail, at least twenty (20) days before the hearing, to all owners of property within 500 feet of the property in question and to such others as the Commission determines should receive notice. Notices to individual property owners shall contain the same information as required of notices published in the newspaper.

22.16 Public Access to Proposed PUD Documents

For a period of at least twenty (20) days prior to the public hearing by the Commission, all papers relating to the planned unit development shall be available for public inspection in the office of the Zoning Inspector and the Erie Regional Planning Commission.

22.17 Approval in Principle of Preliminary Development Plan

Within sixty (60) days after the public hearing, the Commission shall review the preliminary development plan to determine if it is consistent with the intent of this Resolution; whether the proposed development advances the

general welfare of the community and neighborhood; and whether the benefits, combination of various land uses, and the interrelationship with the land uses in the surrounding area justify the deviation from standard district regulations. The Commission's approval in principle of the preliminary development plan shall be necessary before an applicant may submit a final development plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels, or engineering feasibility.

22.18 Submission of Final Development Plan

After approval in principle of the preliminary development plan, the developer shall submit a final development plan to the Zoning Inspector. The final development plan shall be in general conformance with the preliminary development plan approved in principle. For the purposes of this Resolution, the submission of the final development plan is a formal request for rezoning of the property in question. Eight (8) copies of the final development plan shall be submitted to the Zoning Inspector. Seven (7) copies shall be forwarded to the relevant technical agencies.

22.19 Final Development Plan Application Contents

An application for approval of the final development plan shall be filed with the Zoning Inspector by at least one owner of property for which the planned unit development is proposed. Each application shall be signed by the owner, attesting to the truth and exactness of all information supplied on the application for the final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within two (2) years from the date of issuance of the approval. At a minimum, the application shall contain the following information:

1. A survey of the proposed development site, showing the dimensions and bearings of the property lines; area in acres; topography; and existing features of the development site, including major wooded areas, structures, streets, easements, utility lines and land uses.
2. All the information required on the preliminary development plan; the location and sizes of lots; location and proposed density of dwelling units; non-residential building intensity; and land uses considered suitable for adjacent properties.
3. A schedule for the development of units to be constructed in progression, and a description of the design

principles for buildings and streetscapes; a tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type; estimated non-residential population by type of housing; estimated non-residential population; anticipated construction timing for each unit; and standards for height, open space, building density, parking areas, population density and public improvements, whenever the applicant proposes any exception from standard zoning district requirements or other Ordinances governing development.

4. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone and natural gas installations; waste disposal facilities; street improvements; and the nature and extent of earth work required for site preparation and development. The utility plans must be according to County standards and approved by the County Engineer and the County Sanitary Engineer.
5. Site plan, showing building(s), various functional use areas, circulation, and their relationship.
6. Preliminary building plans.
7. Landscaping plans.
8. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land, and the improvements thereon, including those areas which are to be commonly owned and maintained.
9. A fee as established by this Ordinance.

22.20 Public Hearing by Commission

Within thirty (30) days after submission of the final development plan, the Commission shall hold a public hearing. Notice and public inspection of the application shall be as specified in Section 28.25.

22.21 Recommendation by Commission

Within sixty (60) days after receipt of the final development plan, the Commission shall recommend that the final development plan be approved as presented, approved with supplementary conditions, or disapproved, and shall transmit all papers constituting the record and the recommendations to Village Council.

22.22 Criteria for Commission Recommendation

Before making its recommendation, the Commission shall find that the facts submitted with the application and presented at the public hearing establish that:

1. The proposed development can be initiated within two (2) years of the date of approval.
2. The streets proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the planned unit development.
3. Any proposed commercial or industrial development can be justified at the location proposed.
4. Any exception from standard district requirements is warranted by design and other amenities incorporated in the final development plan, in accordance with these planned unit development requirements and the need to provide a variety of housing opportunities with regard to type and price.
5. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
6. The existing and proposed utility services are adequate for the population densities and non-residential uses proposed.
7. Said development shall prove not to be endangering to the soil stability of and around the site district.
8. Proposed design shall consider the removal of minimal natural coverage and in all cases reflect conservatory measures relating to open space.

22.23 Public Hearing by Village Council

After receiving the recommendation from the Village Planning Commission, the Village Council shall hold a public hearing on the PUD final development plan within a reasonable time.

22.24 Notice of Public Hearing by Village Council

Before holding its public hearing, notice of such hearing shall be given by at least one publication in one or more newspapers of general circulation at least thirty (30) days before the hearing. The notice shall set forth the time and place of the public hearing, the nature and a general description and summary of the planned unit development, and a statement that all papers relating to the planned unit development are on file with the Clerk

and open for public inspection.

Also, written notice of the hearing on the planned unit development shall be mailed by the Clerk by first class mail, at least twenty (20) days before the date of the public hearing, to all owners of property within 500 feet of the proposed planned unit development and to such others as may be determined should receive such notice. Notices to individual property owners should contain the same information as required of notices published in the newspaper.

22.25 Action by Village Council

After the public hearing, the Council shall either approve, approve with supplementary conditions, or disapprove the application as submitted. If the application is approved as submitted or approved with conditions, the Council shall direct the Zoning Inspector to issue zoning permits in accordance with the approved plan and any conditions thereto attached. The final development plan shall further be considered as an integral part of the rezoning amendment, and no change from or substantive alteration in such planned unit development shall be permitted without repetition of the procedures in these Sections.

In the event that the Village Council deny or substantially modify the final development plan as recommended by the Commission, any resulting final development plan for said planned unit development shall not be effective unless approved unanimously by the Trustees.

22.26 Supplementary Conditions and Safeguards

In approving any planned unit development application, both the Planning Commission and the Council may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Any violation of such conditions or safeguards, which have been made a part of the terms under which the final development plan has been approved, shall constitute a violation of this Ordinance and be punishable as such.

22.27 Expiration and Extension of Approval Period

The approval of a final development plan for a planned unit development district shall be for a period not to exceed five (5) years to allow for preparation and recording of the required subdivision plat and development of the project. If no construction has begun within two (2) years after approval is granted, the approved final development plan shall be void, and the land shall revert to the district regulations of the district in which it is located. An extension of the time limit or

modification of the approved final development plan may be approved if the Board of Zoning Appeals finds that such extension is not in conflict with the public interest. No zoning amendment passed during the time period granted for the final approved final development plan shall in any way affect the terms under which approval of the planned unit development was granted.

22.28 Changes in the Planned Unit Development

A Planned Unit Development shall be developed only according to the approved and recorded final plan and all supporting data. The recorded final plan and supporting data together with all recorded amendments shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of premises (including the internal use of buildings and structures) and location of structures in the Planned Unit Development as set forth therein.

1. Major Changes. Changes which alter the concept or intent of the Planned Unit Development including increases in the density, changes in location and types of nonresidential land uses, increases in the height of buildings, reductions of proposed open space, more than a 15 percent modification in proportion of housing types, changes in road standards or alignment, utilities, water, electricity and drainage, or changes in the final governing agreements, provisions or covenants, may be approved only by submission of a new preliminary plan and supporting data, and following the "preliminary approval" steps and subsequent amendment of the final Planned Unit Development Plan.
2. Minor Changes. The Planning Commission may approve changes in the Planned Unit Development which do not change the concept or intent of the development, without going through the "preliminary approval" steps. Minor changes are defined as any change not defined as a major change.

22.29 General Standards for Making Determinations

The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

1. Will be harmonious with and in accordance with the general objectives or with any specific objectives of the Comprehensive Development Plan of current adoption;
2. Will be designed, constructed, operated and maintained

so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;

3. Will not be hazardous or disturbing to existing or future neighboring uses;
4. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
5. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishments of the proposed use shall be able to provide adequately any such service.
6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
7. Will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors. The Planning Commission may require studies such as a traffic study to be provided to ensure the concerns noted above can be addressed.
8. Will encourage development as close as possible to existing settlements to keep the cost of providing service down.
9. Will ensure that utilities such as water supply, sanitary sewers and drainage systems have adequate capacities to serve the proposed development.
10. Will provide adequate access for emergency vehicles and for those persons providing emergency services.
11. Will provide adequate security lighting for pedestrian circulation paths, vehicular use areas and exterior portions of buildings.
12. Will encourage the use of the existing road system presently maintained by the authority having jurisdiction to minimize the additional maintenance expense of new development and to ensure that new development is adequately served by the transportation network.
13. Will be consistent with the intent and purposes of this

ordinance.

22.30 Development Policies

1. Density

- a. The maximum density for a proposed residential development shall be based on site specific review, but shall be based on the compatibility with adjacent uses;
- b. Where increased densities are located adjacent to existing building, the building setback should be increased to minimize any adverse impacts of the proposed development.

2. Height Criteria

- a. **Architectural Compatibility:** The heights of all buildings are encouraged to be compatible with their vicinity.
- b. **General Character:** The heights of the buildings should be in general compliance with district regulations for a similar type of land use.
- c. **Scenic Values:** Buildings should be of such heights so as not to destroy or degrade the scenic values of surrounding areas.
- d. **Views:** Buildings shall not be of such height so as to block, destroy or degrade the scenic values as seen from other private places that exist or are likely to exist in the future.
- e. **Light & Air:** Buildings shall not be of such heights so as to deny light and air to surrounding properties.

22.31 Site Design

Statement of Policy. The village hereby finds that it is in the public interest for all sites within the community to be designed, arranged and developed in a safe, efficient and aesthetically pleasing manner. The arrangement of all functions, uses and improvements should reflect the natural capabilities and limitations of the site as well as the characteristics and limitations of the adjacent property. The various structures, use areas, functions, and elements of the site design should be integrated by design into a unified whole, except in those cases where separation is appropriate to a particular interrelationship. Taking into consideration the basic character of the site and the nature of the proposed uses, the development should be visually harmonious as perceived from both within and without.

1. **Integration and Separation:** It is encouraged that those elements and functions of the site that are basically compatible with one another be integrated by design to the degree of their compatibility and separated to the

degree of their compatibility.

2. **Privacy.** It is encouraged that all sites be arranged so as to provide privacy for the occupants of both the site and surrounding areas.
3. **Aesthetics.** It is recommended that the site be developed in such a way so as to be visually harmonious when viewed either internally or externally. The degree of existing character of the site and the basic nature of the proposed uses.
4. **Vistas.** It is encouraged that the site be developed in such a way so as to preserve or enhance vistas, particularly those seen from public places.

22.32 Placement of Structures

1. **Clear Vision Area.** No structure or foliage shall extend into a clear vision area between the height of three feet and seven feet measured from the top of the curb, or where no curb exists, from the established street center line grade. The clear vision areas shall be as follows:
 - a. **Intersection of driveways and public rights-of-way:** A triangle having two sides 10 feet long and running along the driveway and public right-of-way, said length beginning at their intersection and the third side formed by a line connecting the two ends.
 - b. **Intersection of two public rights-of-way:** A triangle having two sides 30 feet long and running along each public right-of-way, said length beginning at their intersection and the third side formed by a line connecting the two sides.
2. **Placement of Structures**
 - a. **Adverse Effects.** No structure shall be placed in such a way so as to adversely affect adjacent ownerships. Adverse effects shall include but not be limited to the removal of lateral support, the creation of hazard, nuisance, danger or inconvenience, unreasonable loss of light and air, or loss of privacy.
 - b. **Snow Storage Areas.** Buildings shall be placed in such a manner as to allow for snow storage easements adjacent to public rights-of-way. Snow storage easements shall be dedicated where appropriate.

ARTICLE 23

FLOODPLAIN, FLOODWAY & WETLAND OVERLAY DISTRICT (F.F. & W)

23.0 Statement of Purpose

The F.F. Overlay District is designed to protect those lands which are subject to predictable inundations at frequent intervals. Such regulations as herein established, while permitting reasonable economic use of affected properties, will protect the public health and reduce potential financial obligations on the Village and its individuals by frequent and periodic floods. By restricting the use of flood lands, areas are reserved for the impoundment of water with a consequent stabilized stream flow which promotes and maintains the streams' ecological environment.

23.1 Boundaries Further Defined

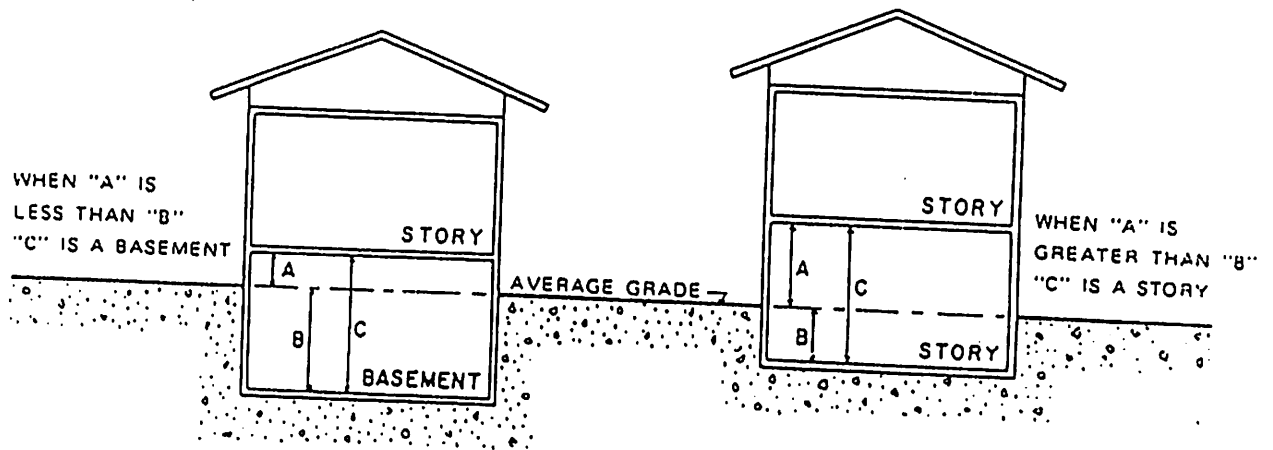
The floodplain and floodway districts are hereby established "overlay districts", meaning that these districts are overlaid upon the districts and the land so enclosed may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in this district. The floodplain and floodway districts are hereby established as shown in Appendix "A" to the Zoning Map, which accompanies this Ordinance.

As used in this article, the terms floodplain and floodway refer in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of these terms. These terms also refer to overlay zoning districts whose boundaries are established on the map identified in this Section, which boundaries are intended to correspond to the actual physical location of floodways and floodplains.

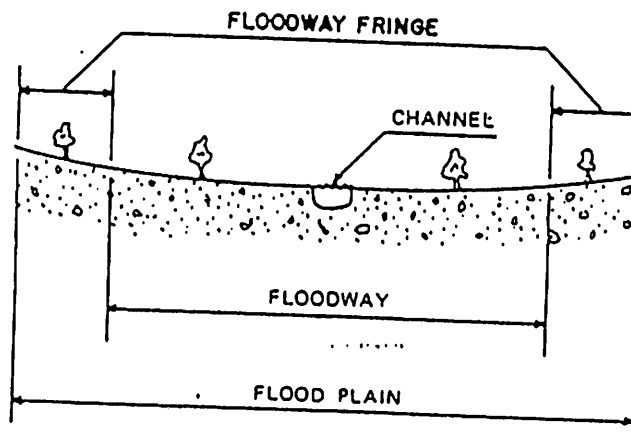
In any area that is located outside a designated floodplain but where a stream is located, no building or fill may be located within a distance of the stream bank equal to five times the width of the stream at the top of the bank or 20 feet on each side, whichever is greater.

23.2 Artificial Obstructions within Floodplain

1. No artificial obstruction may be located within any floodway, except as provided in Section 20.25 and with issuance of a floodplain permit from the Village of Berlin Heights.
2. For purposes of this section, an artificial obstruction is any obstruction, other than a natural obstruction,



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that is capable of reducing the flood-carrying capacity of a stream or may accumulate debris and thereby reduce the flood-carrying capacity of a stream. A natural obstruction includes any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within the floodway by a nonhuman cause.

23.3 Permissible Uses within Floodways

Notwithstanding this provision of this resolution, no use of land within a floodway may be permitted unless the proposed use is listed in the underlying district and in the following list:

- (1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses.
- (2) Ground-level loading areas, parking areas, rotary aircraft ports, and other similar ground-level area uses.
- (3) Lawns, gardens, play areas and other similar uses.
- (4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback-riding trails, open space and other similar private and public recreational uses.

23.4 Limitations on Uses within Floodways & Floodplains

1. Any development within the District should meet the following criteria:
 - (a) The proposed development is consistent with the need to minimize flood damage, and
 - (b) All public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage, and
 - (c) Adequate drainage is provided to minimize or reduce exposure to flood hazards, and
 - (d) All necessary permits have been received from Erie Regional Planning Commission and those agencies from which approval is required by federal or state law.
2. No building may be constructed and no substantial improvement of an existing building may take place within any floodway. With respect to mobile home parks that are nonconforming because they are located within a floodway, mobile homes may be relocated in such parks only if they comply with the provisions of Subsection (7).
3. No new residential building may be constructed and no substantial improvement of a residential building may take place within any floodplain unless the lowest floor

(including basement) of the building or improvement is elevated to or above the base flood level.

- (1) Residential accessory structures shall be allowed within floodplains provided they are firmly anchored to prevent flotation.
 - (2) Anchoring of any accessory buildings may be done by bolting the building to a concrete slab or by over-the-top ties. When bolting to a concrete slab, one-half inch bolts six feet on center with a minimum of two per side shall be required. If over-the-top ties are used, a minimum of two ties with a force adequate to secure the building is required.
4. No new residential building may be constructed and no substantial improvements of a nonresidential building may take place within any floodplain unless the lowest floor (including basement) of the building or improvement is elevated or floodproofed to or above the base flood level. Where floodproofing is used in lieu of elevation, a registered professional engineer or architect shall certify that any new construction or substantial improvement has been designed to withstand the flood depths, pressure, velocities, impact and uplift forces associated with the base flood at the location of the building and that the walls below the base flood level are substantially impermeable to the passage of water.
5. For purposes of this section, "substantial improvement" means for a building constructed prior to the effective date of this chapter, any repair, reconstruction, or improvement of a building, the cost of which equals or exceeds 50 percent of the market value of the structure either (i) before the improvement or repair is started or (ii) if the structure has been damaged and is being restored, before the damage occurred. "Substantial improvement" occurs when the first alteration on any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include with (i) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are solely necessary to insure safe living conditions, or (ii) any alteration of a building listed on the National Register of Historic Places or a State Inventory of Historic Places.
6. No zoning, special-use, or conditional-use permit may be issued for any development within a floodplain until the permit-issuing authority has reviewed the plans to assure that any new construction or substantial improve-

ments shall be:

- (a) Designed (or modified) and adequately anchored to prevent flotation collapse, or lateral movement of the structure.
- (b) Constructed with materials and utility equipment resistant to flood damage.
- (c) Constructed by methods and practices that minimize flood damage.

7. Notwithstanding any other provision of this Section, no mobile home may be located or relocated within that portion of the floodplain outside of the floodway, unless the following criteria are met:

- (a) Ground anchors for tie downs are provided.
- (b) The following tie-down requirements are met:
 - (i) Over-the-top ties are required at each of the four corners of the mobile home, with one additional tie per side at an intermediate location, for mobile homes less than 50 feet long. Two additional ties per side are required for mobile homes more than 50 feet long.
 - (ii) Frame ties are required in conjunction with each over-the-top tie.
 - (iii) All components of the anchoring must be capable of carrying a force of 4,800 pounds.
- (c) Lots or pads are elevated on compacted fill or by any other method approved by the administrator so that the lowest habitable floor of the mobile home is at or above the base flood level.
- (d) Adequate surface drainage and easy access for mobile home hauler is provided.
- (e) Load-bearing foundation supports such as piers or pilings must be placed on stable soil or concrete footings no more than 10 feet apart, and if the support height is greater than 72 inches, the support must contain steel reinforcement.

8. Dumping or backfilling with any material or excavation in any manner is prohibited unless:

- a. Through compensating excavation and shaping of the floodplain, the flow and impounding capacity of the floodplain will be maintained or improved, and will not cause an increase in the flood hazard or damage from floods and will not allow water to collect in pools that will stagnate.
- b. No significantly measurable reduction in the flow or impoundment capacity of the floodplain thereby results.
- c. Where there is dumping, backfilling or excavation in

any manner, adequate site plans and engineering drawings shall be submitted to effectively show the final results of such action.

23.5 Site and Landscaping Plan Review

For all development in the F.F. District, a site plan shall be submitted to the Planning Commission for its review and recommendations. The Planning Commission, in its review of the site plan, shall have regard to the provisions of Article 29.

23.6 Reference to Flood Plain Permit

Floodplain permits are required in accordance with the requirements of the Flood Damage Prevention and Flood Plain Building Regulations.

23.7 Wetlands

Wetlands are areas inundated or saturated by surface or ground water at a frequency or duration sufficient to support and under normal circumstances support a prevalence of vegetation adapted for life in saturated soil conditions. Size is not a limitation. Areas smaller than an acre are regulated by the Army Corps of Engineers.

23.8 Permits Required

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403): Under this law you will need a permit from the Corps of Engineers for any structure or work that takes place in, under or over a navigable water or wetland adjacent to navigable waters of the United States.

Section 404 of the Clean Water Act (33 U.S.C. 1344): Under this law, you need a permit to discharge dredged or fill material into a water of the United States. Remember, this includes wetlands.

23.9 Wetland Zone Mapping

This section allows for the incorporation of wetland maps into the zoning resolution. Although all wetlands cannot be delineated without site specific analysis, the overlay district will delineate wetlands where the determination has been made. Permits shall be obtained through the Army Corps of Engineers, as appropriate.