ARTICLE 5
ADMINISTRATION

SECTION 500 OFFICE OF ZONING INSPECTOR CREATED

A Zoning Inspector appointed by the Mayor shall administer and enforce this ordinance. The Zoning Inspector may be assisted by such other persons as the Mayor may direct.

SECTION 501 DUTIES OF ZONING INSPECTOR (Revised 4/8/14)

The Zoning Inspector shall have the duties imposed and powers granted by this ordinance as are necessary to administer and enforce same. The Zoning Inspector shall conduct periodic routine inspections of lots in the Village to determine compliance with this ordinance. The inspections shall be conducted during regular business hours and shall involve violations that are in plain sight, without requiring the Zoning Inspector to enter private property to view same. If further investigation is merited, a search warrant shall be obtained.

SECTION 502 PLANNING COMMISSION CREATED

1. The Planning Commission is hereby established pursuant to ORC §713.01.
2. The Planning Commission shall be comprised of 5 members: the Mayor, one (1) Councilmember (elected by the Village Council to serve for the remainder of the Councilmember's term on the Village Council), and 3 residents of the Village appointed by the Mayor.
3. After the effective date of this ordinance, the Councilmember representative shall be elected and the 3 residents of the Village shall be appointed to terms that will expire on 31 December of this year, 2 years from this year, and 4 years from this year. Thereafter, each village resident member shall be appointed for a term of 6 years and until a successor is duly appointed.
4. A member may be appointed to any number of terms, whether or not said terms are consecutive.
5. At the first meeting of the Planning Commission held each year, the members shall elect one of themselves as the chair of the commission, who shall preside over the meetings of the commission.
6. If the chair resigns, is removed, or is otherwise unable to continue to perform the chair's duties, the members shall elect a replacement chair to serve for the remainder of the year.
7. The Village Council shall appoint a person to serve as the secretary of the Planning Commission, who shall keep minutes of the commission's meetings, showing the attendance of the members, the vote (or abstention) of each member upon each question presented, and all other official actions taken by the commission.

8. The minutes of the Planning Commission's meetings shall constitute public records. The minutes shall be signed by the chair and the secretary and filed with the Zoning Inspector immediately after they have been approved by the commission.
9. If the secretary resigns, is removed, or is otherwise unable to continue to perform the secretary's duties, the Village Council shall appoint a replacement secretary.
10. Meetings of the Planning Commission shall be held periodically at such times, dates, and places as determined by the chair or any 3 of the members, or as required by this ordinance.
11. The conduct of the meetings of the Planning Commission shall be governed by the rules and regulations adopted by the Village Council for its own meetings.
12. The Planning Commission may adopt such additional rules and regulations, which are not inconsistent with those adopted by the Village Council, for the conduct of its affairs in accordance with the provisions of this ordinance.
13. All meetings of the Planning Commission shall be subject to the provisions of ORC §121.22 ("the Ohio sunshine law").
14. A resignation by a member shall take effect upon its receipt by the Mayor or the Village Clerk-Treasurer unless some other date is specified therein.
15. Any of the 3 residents of the Village appointed by the Mayor may be removed from the Planning Commission by the Village Council for cause, upon written charges and after being given the opportunity for a hearing to refute said charges.
16. In case of a vacancy on the Planning Commission, the Mayor shall appoint a successor to hold office for the unexpired portion of the term so vacant.
17. All expenditures made for the purposes stated in this ordinance shall be made by the Village Council from funds appropriated for said purposes, and shall not be made by the Planning Commission itself.

SECTION 503 DUTIES OF PLANNING COMMISSION

The Planning Commission shall have the following duties imposed and powers granted by this ordinance:

1. Review all proposed amendments to this ordinance and make recommendations to the Village Council regarding same, as provided in Article 6.
2. Recommend proposed amendments to this ordinance, as provided in Article 6.
3. Review all Planned Unit Developments and make recommendations to the Village Council regarding same, as provided in Article 13.

SECTION 504 BOARD OF ZONING APPEALS CREATED

1. The Board of Zoning Appeals is hereby established.
2. The Board of Zoning Appeals shall be comprised of 5 members who are residents of the Village appointed by the Mayor.
3. After the effective date of this ordinance, 5 members shall be appointed to terms that will expire on 31 December of this year and each year for the following 4 years.

Thereafter, each member shall be appointed for a term of 5 years and until a successor is duly appointed.

4. A member may be appointed to any number of terms, whether or not said terms are consecutive.
5. At the first meeting of the Board of Zoning Appeals held each year, the members shall elect one of themselves as the chair of the board, who shall preside over the meetings of the board.
6. If the chair resigns, is removed, or is otherwise unable to continue to perform the chair's duties, the members shall elect a replacement chair to serve for the remainder of the year.
7. The chair, or the acting chair in the chair's absence, may administer oaths and compel the attendance of witnesses at the proceedings of the Board of Zoning Appeals.
8. At the first meeting of the Board of Zoning Appeals held each year, the members shall elect one of themselves as the secretary, who shall keep minutes of the board's meetings, showing the attendance of the members, the vote (or abstention) of each member upon each question presented, and all other official actions taken by the board.
9. The minutes of the Board of Zoning Appeals' meetings shall constitute public records. The minutes shall be signed by the chair and the secretary and filed with the Zoning Inspector immediately after they have been approved by the board.
10. If the secretary resigns, is removed, or is otherwise unable to continue to perform the secretary's duties, the members shall elect a replacement secretary to serve for the remainder of the year.
11. Meetings of the Board of Zoning Appeals shall be held periodically at such times, dates, and places as determined by the chair or any 3 of the members, or as required by this ordinance.
12. The conduct of the meetings of the Board of Zoning Appeals shall be governed by the rules and regulations adopted by the Village Council for its own meetings.
13. The Board of Zoning Appeals may adopt such additional rules and regulations, which are not inconsistent with those adopted by the Village Council, for the conduct of its affairs in accordance with the provisions of this ordinance.
14. All meetings of the Board of Zoning Appeals shall be subject to the provisions of ORC §121.22 ("the Ohio sunshine law").
15. A resignation by a member shall take effect upon its receipt by the Mayor or the Village Clerk-Treasurer unless some other date is specified therein.
16. A member may be removed from the Board of Zoning Appeals by the Village Council for cause, upon written charges and after being given the opportunity for a hearing to refute said charges.
17. In case of a vacancy on the Board of Zoning Appeals, the Mayor shall appoint a successor to hold office for the unexpired portion of the term so vacant.
18. All expenditures made for the purposes stated in this ordinance shall be made by the Village Council from funds appropriated for said purposes, and shall not be made by the Board of Zoning Appeals itself.

SECTION 505 DUTIES OF BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall have the following duties imposed and powers granted by this ordinance:

1. Hear and decide an appeal from a decision of the Zoning Inspector.
2. Authorize a variance from the terms of this ordinance.
3. Grant a conditional use.

SECTION 506 APPEALS FROM THE DECISION OF THE ZONING INSPECTOR

All questions of interpretation and enforcement of this ordinance shall be first presented to the Zoning Inspector. Said questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Zoning Inspector where it is alleged that the Zoning Inspector made an error in any order, requirement, decision, interpretation, or determination (except for any zoning permit application that does not meet the prima facie requirements of this ordinance and would require a ruling by the Board of Zoning Appeals for the issuance of a zoning permit). The Village Council's only duties pursuant to the provisions of this ordinance shall be to consider proposed amendments to or the repeal of this ordinance, to establish by motion the forms of the documents to be used to administer and enforce this ordinance, and to establish a schedule of fees and expenses in accordance with §314. The Village Council shall not hear or decide questions of interpretation and enforcement of this ordinance.

SECTION 507 CONTENTS OF APPEAL

A decision of the Zoning Inspector may be appealed to the Board of Zoning Appeals by any interested person (including an official or employee of the Village) within 30 days after the date of the Zoning Inspector's decision. The appeal shall be signed by the appellant, attesting to the truth and accuracy of all the information supplied in the appeal, and shall be filed with the Zoning Inspector. The appeal shall contain the following information:

1. A copy of the zoning permit application or the occupancy permit application which the Zoning Inspector denied. (If no application was denied, the appeal shall include the name, address, telephone number, and status of the appellant, and the same information pertaining to the owner of the subject lot if the owner is not the appellant.)
2. A copy of the Zoning Inspector's decision.
3. A statement discussing the reasons for the appellant's disagreement with the Zoning Inspector's decision.
4. A list of all persons (and their tax mailing addresses as contained in the Ashtabula County tax duplicate) whose property is the subject of the Zoning Inspector's decision, whose property is contiguous to and across the street from the subject lot, and who may have a substantial interest in or be substantially affected by the appeal of said decision.
5. A list all witnesses and their addresses that the appellant expects to call to testify at the hearing on the appeal.

The Zoning Inspector shall forward a copy of the appeal and any other documents pertinent to

the appeal to each member of the Board of Zoning Appeals immediately upon receipt of same.

SECTION 508 STAY OF PROCEEDINGS

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board of Zoning Appeals that, by reason of facts stated in the appeal, a stay would cause imminent peril to life and property, in the Zoning Inspector's opinion. In such a case, proceedings shall not be stayed other than by a restraining order granted by a court of competent jurisdiction on application, on notice to the Zoning Inspector, and for good cause shown.

SECTION 509 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

The Board of Zoning Appeals, in deciding an appeal, shall not allow a use prohibited by this ordinance in the district involved. In deciding an appeal, the Board of Zoning Appeals may prescribe certain appropriate conditions and safeguards in compliance with this ordinance. A violation of any of said conditions and safeguards, when made a part of the terms under which the appeal is decided, shall be deemed a violation of this ordinance.

SECTION 510 VARIANCES

(Revised 8/21/06)

The Board of Zoning Appeals may authorize a variance from the provisions of this ordinance as will not be contrary to the public interest, so that the spirit of this ordinance shall be observed and substantial justice done.

SECTION 511 CONTENTS OF VARIANCE APPLICATION

A variance application shall contain the following information:

1. Description of the nature of the variance requested.
2. A statement discussing how the requested variance conforms to the following standards:
   a. Special conditions and circumstances exist which are peculiar to the lot, building, or other structure involved which are not applicable to other lots, buildings, or other structures in the district.
   b. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other lots, buildings, or other structures in the same district pursuant to the provisions of this ordinance.
   c. Said special conditions and circumstances do not result from the actions of the applicant.
   d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lots, buildings, or other structures in the same district.
3. A list of all persons (and their tax mailing addresses as contained in the Ashtabula County tax duplicate) whose property is the subject of the application, whose property

is contiguous to and across the street from the subject lot, and who may have a substantial interest in or be substantially affected by the variance.

4. A list all witnesses and their addresses that the applicant expects to call to testify at the hearing on the application.

The Zoning Inspector shall forward a copy of the variance application and any other documents pertinent to the application to each member of the Board of Zoning Appeals immediately upon receipt of same.

SECTION 512 STANDARDS FOR VARIANCES (Added 8/21/06)

No variance shall by granted by the Board of Zoning Appeals unless it considers all the following standards and makes the following determinations:

1. Area Variance. Where the applicant requests a variance involving provisions relating to yard dimensions, setback, height, or similar or dimensional requirements ("an area variance"), the following standards shall be considered in determining whether the grant of a variance is warranted to afford relief from practical difficulties:
   a. Whether the lot in question will yield a reasonable return and whether there can be any beneficial use of the lot without the variance.
   b. Whether the variance is substantial.
   c. Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.
   d. Whether the variance will adversely affect the delivery of governmental services.
   e. Whether the property owner purchased the lot with knowledge of the zoning restriction.
   f. Whether the lot owner's needs can be addressed through some method other than a variance.
   g. Whether the spirit and intent of this ordinance will be observed and substantial justice done by granting the variance.
   h. Whether the lot in question has unique or exceptional circumstances or conditions that do not generally apply to other lots in the vicinity and within the same district.
2. Use Variance. Where the applicant requests a variance for the approval of a use which is not permitted in the district ("a use variance"), the following standards shall be considered in determining whether the grant of a variance is warranted to afford relief from an unnecessary hardship:
   a. Whether uses permitted in the district may be reasonably established on the lot and whether they are economically viable on the lot in question without the variance.
   b. Whether the variance is the minimum variance which will afford relief to the lot owner.
   c. Whether the essential character of the neighborhood will be substantially altered or adjoining properties will suffer interference with their proper future development and rights as a result of the variance.
   d. Whether the lot in question has unique or exceptional circumstances or conditions

that do not generally apply to other lots in the vicinity and within the same district.

e. Whether the hardship condition was created by actions of the applicant.
f. Whether the spirit and intent of this ordinance will be observed and substantial justice done by granting the variance.
g. Whether the use requested is similar in character to the permitted uses in the subject district.
h. Whether the subject lot is adequate to meet the needs and requirements of the proposed use.

3. No non-conforming use of neighboring lots, buildings, or other structures in the same district, and no permitted or non-conforming uses of lots, buildings, or other structures in other districts, shall be considered as grounds for the issuance of a variance.
4. No variance shall be granted on the grounds of convenience or profit.

SECTION 513 CONDITIONAL USES GENERALLY (Revised 8/21/06)

The number of new kinds of uses increases annually, which uses may not be addressed by the Schedule of Uses contained in this ordinance. The purpose of this article is to establish standards and procedures for review of uses which have the potential to be compatible with the districts in which they are proposed, due to the nature of their operation, appearance, or other characteristics, require individual review and control of their location, design, intensity, configuration, and impacts upon the district and the community in order to ensure such compatibility and preservation of the district and community.

1. No conditional use shall be approved by the Board of Zoning Appeals unless it considers all the standards contained in, and makes the determinations required by, §§516 and 517.
2. No conditional use shall be approved by the Board of Zoning Appeals to allow a use prohibited by this ordinance in the district involved unless it determines that the proposed use has new and different aspects that modify the original intent of this ordinance in prohibiting said use.
3. A use not listed in the Schedule of Uses, or an old use with new and different aspects, may be permitted by the Board of Zoning Appeals subject to certain conditions imposed upon said use.
4. A use listed in the Schedule of Uses as a conditional use shall not be permitted by right. The identification of a use as a conditional use in a district shall not establish or imply any rights for approval of the use on any lot, nor shall the approval of a conditional use on one lot establish or imply any rights for approval of the same use on any other lot. Listing as a conditional use shall afford the opportunity to submit an application for a conditional use permit, which may be approved or denied on the basis of the provisions of this ordinance.
5. When a use is listed in the Schedule of Uses as a conditional use for a district, the conditional use of land, building, or structure shall not be established until a conditional use application is reviewed and approved by the Board of Zoning Appeals and a conditional use permit is issued by the Zoning Inspector.

SECTION 514 CONTENTS OF CONDITIONAL USE APPLICATION

(Revised 8/21/06)

A conditional use application shall contain the following information:

1. 2 copies of plans drawn to a scale acceptable to the Zoning Inspector shall be submitted with the application which shall contain the following current information:
   a. Property lines.
   b. Dimensions of the subject lot.
   c. Dimensions (including height) and location of all existing buildings and other structures located on the subject lot.
   d. Uses of the subject lot and all adjacent lots.
   e. Zoning district of the subject lot and all adjacent lots.
   f. Thoroughfares and access points to same from the subject lot.
   g. Location, number, and dimensions of off-street parking spaces and loading spaces on the subject lot.
   h. Location and number of dwelling units in each building on the subject lot.
   i. Location, number, dimensions (including height), and nature of all signs on the subject lot.
   j. All proposed changes.
2. Description of the nature of the conditional use requested, including the goods and services to be sold or provided, hours of operation, anticipated number of employees, nature and volume of delivery activity, characteristics of vehicular and pedestrian traffic, and other information which explains the nature of the proposed use and its potential impact.
3. A statement discussing the compatibility of the proposed use with the existing and permitted uses of adjacent properties and with any plans adopted by the Village, including an evaluation of the effects on adjacent properties of such elements as vehicular and pedestrian traffic circulation, offensive noise, vibration, dust, heat, smoke, odor, fumes, glare, storm water, or other potentially objectionable influences.
4. A statement addressing each of the applicable criteria set forth in §516 and, as applicable, §517.
5. A list of all persons (and their tax mailing addresses as contained in the Ashtabula County tax duplicate) whose property is the subject of the application, whose property is contiguous to and across the street from the subject lot, and who may have a substantial interest in or be substantially affected by the conditional use.
6. A list all witnesses and their addresses that the applicant expects to call to testify at the hearing on the application.
7. The expected expiration date of the conditional use (if any).

Upon review of the application, the Board of Zoning Appeals may determine that additional information is necessary to make a determination of the compliance of the proposed use with the provisions of this ordinance. The board may determine that additional studies or expert

advice are necessary to evaluate a proposed conditional use and shall advise the applicant if said studies or advice are required. The board may accept studies prepared by qualified professionals engaged by the applicant or may require the applicant to deposit with the Village funds as required to pay for studies prepared by qualified professionals engaged by the Village. The Zoning Inspector shall forward a copy of the conditional use application and any other documents pertinent to the application to each member of the Board of Zoning Appeals immediately upon receipt of same.

SECTION 515 ISSUANCE, EXPIRATION, REVOCATION, TRANSFER OF CONDITIONAL USE PERMIT
(Added 8/21/06)

1. A conditional use permit is personal to the applicant and is not transferable.
2. A conditional use permit shall expire when ownership of the subject lot is transferred to any new owner.
3. If the work described in the conditional use permit has not begun within one year from the date of the permit, the permit shall automatically expire. If the work described in the conditional use permit has not been substantially completed within 2 years of the date of the permit, the permit shall automatically expire. The Zoning Inspector shall give written notice of the expiration to the persons affected. The notice shall state that further work as described in the expired permit shall not proceed unless and until a new conditional use permit has been obtained or an extension granted. A single such extension of the conditional use permit, not to exceed 6 months, may be granted by the Board of Zoning Appeals after written request by the applicant.
4. A conditional use permit shall automatically expire on the expiration date specified in the conditional use application or on the date specified in the conditional use permit, whichever occurs first. A conditional use permit shall automatically expire if the conditional use is discontinued or abandoned for more than 2 years.
5. A conditional use permit may be amended pursuant to the same procedures as required for a new permit.
6. A conditional use permit may be revoked by the Board of Zoning Appeals if it determines after notice and a hearing that the lot is not being used in the manner approved by the board when the permit was issued or for noncompliance with the conditions imposed on the use by the board.

SECTION 516 GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES
(Revised 8/21/06)

In considering an application for a conditional use permit, the Board of Zoning Appeals shall determine that the proposed use shall comply with the general standards in this section and the specific standards in §517 pertinent to each use indicated therein. The board may also recommend such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this ordinance are observed. No conditional use shall be granted by the board

unless it reviews the particular facts and circumstances of the proposed use and determines that the proposed use shall comply with all the following standards:

1. The use shall be harmonious with and in accordance with the general objectives or with any specific objective of the Village plans and this ordinance.
2. The applicable structure shall 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 the use shall not change the essential character of same.
3. The use shall not be hazardous or disturbing to existing or future neighboring uses.
4. The use shall not be detrimental to property in the immediate vicinity or to the community as a whole.
5. The lot shall be served adequately by essential public facilities and services such as roads, police and fire protection, drainage structures, refuse disposal, and schools, or the appropriate persons or agencies responsible for the establishment of said facilities and services shall be able to adequately provide same if the conditional use permit is granted.
6. Vehicular and pedestrian traffic approaches to the lot shall be so designed as not to create an interference with such traffic on surrounding public roads and sidewalks.
7. The structure and lot shall not have exterior lighting or audio equipment which is incompatible with the uses of the district.

SECTION 517 STANDARDS FOR SPECIFIC CONDITIONAL USES

(Revised 8/21/06)

In addition to the standards for all conditional uses stated in §516, the following standards shall apply to the specified conditional uses:

1. Home Occupation. It is the intent of this section to allow limited non-residential uses in residential structures which are compatible with the residential character of their surroundings. No home occupation shall be permitted as a conditional use unless it shall comply with all the following standards:
   a. A home occupation shall be clearly incidental and subordinate to the use of the lot and structure as a dwelling.
   b. A home occupation shall be owned and conducted only by persons residing in the dwelling. No person who is not a resident of the dwelling may participate in the home occupation as an employee or volunteer.
   c. The external appearance of the dwelling shall not be altered, except for no more than one sign, with a sign area not to exceed 2 square feet, which shall be mounted flush to a wall of the dwelling. No free-standing signs shall be permitted that pertain to the use.
   d. Sales of products not produced on the premises may be permitted, provided that the products are reasonably related to the home occupation.
   e. No more than 2 additional parking spaces may be created in conjunction with the home occupation, and they shall not be located in a required front yard.
   f. No more than 25% of the floor area of the dwelling shall be used in the conduct of

the home occupation. The total of all floor area used for the home occupation, including the dwelling, basement, and attached garage, shall not exceed 800 square feet. Floor area of an attached garage may be used by the home occupation if the occupation does not occupy parking spaces required for the dwelling by this ordinance.

g. A home occupation, including any storage of materials or equipment related thereto, shall be carried on entirely within the dwelling. No activity, material, goods, or equipment indicative of the occupation shall be visible from any public right-of-way or adjacent property. A home occupation shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted on another lot.

h. No exterior alteration of the dwelling shall be permitted which is inconsistent or incompatible with the normal scale, orientation, or appearance of typical dwellings in the neighborhood.

i. The proposed use shall not create dangers to the health and safety of the neighbors, or generate noise, odor, fumes, smoke, or vehicular or pedestrian traffic, or other disturbance or nuisance in an amount which would tend detract from the residential character of the neighborhood in which the proposed use is located or which exceeds that impact normally generated by a dwelling.

j. No more than one passenger car or other motor vehicle, designed to carry a load of no more than one ton and used in the conduct of the business, shall be parked on the lot. Said vehicle shall be parked in a garage or on a paved exterior parking area on the lot. Other equipment, including trailers, shall be stored in a garage which is part of the dwelling or in an approved accessory structure. No vehicle used in the conduct of the home occupation or by any permitted visitor to the home occupation shall be parked on the public road for a period greater than 15 minutes in any one hour.

k. No home occupation shall have more than one customer to the lot during any 1/2 hour period.

l. A conditional use granted for a home occupation shall automatically expire if the person to whom the use is granted no longer resides at the subject dwelling.

2. Similar Uses.

a. The determination as to whether a use is similar to uses permitted by right shall be considered as an interpretation of the use regulations of the district and not as a variance.

b. An application for a permit for a building or use not specifically listed in a district shall be submitted to the Zoning Inspector who shall make a recommendation to the Board of Zoning Appeals, which shall take action to either approve, approve with amendments, or deny the recommendation. The board shall consider the following standards in making its decision:

   i. Whether the use is listed in any other district.

   ii. Whether the use is more appropriate and conforms to the basic characteristics of the district in which it is proposed than to any other district.

iii. Whether the use creates dangers to health and safety, or creates offensive noise, vibration, dust, heat, smoke, odor, fumes, glare, storm water, or other potentially objectionable influences to an extent greater than normally resulting from other uses listed in the district in which it is proposed.

iv. Such use does not create vehicular or pedestrian traffic to an extent greater than the other uses listed in district in which it is proposed.

3. Type A Family Day Care Home.

a. The applicant shall comply with all applicable licensing requirements of the State of Ohio

b. Curb cuts, parking, drop-off, and pick-up areas shall be designed to accommodate peak vehicular traffic at the facility in a safe and efficient manner without causing obstruction of the public road. Parking shall not be permitted on the public road for purposes of the proposed use.

c. The lot shall provide sufficient fenced outdoor space for outdoor recreation for the children, located in such a manner as to maintain a safe environment for the children and to minimize disturbance to adjacent residential areas.

4. Wireless Telecommunication Facilities.

a. Purpose. This section regulates the placement, construction, and modification of wireless telecommunication facilities in order to protect the public health, safety and welfare, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace within the Village. Specifically, the purposes of this section are to:

i. Direct the location of various types of wireless telecommunication facilities into appropriate areas of the Village.

ii. Protect residential areas and land uses from potential adverse impacts of wireless telecommunication facilities.

iii. Minimize adverse visual impacts of wireless telecommunication facilities through careful design, siting, landscaping, and innovative camouflaging techniques.

iv. Promote and encourage shared use/co-location of wireless telecommunication facilities as a primary option rather than construction of additional single use facilities.

v. Avoid potential damage to adjacent properties caused by wireless telecommunication facilities by requiring the structures to be soundly designed, constructed, and modified, appropriately maintained, and fully removed when no longer used.

vi. Make the wireless telecommunication facilities compatible with surrounding land uses, to the greatest extent feasible.

vii. Design the wireless telecommunication facilities to be in harmony with natural settings and to be consistent with current development patterns, to the greatest extent feasible.

b. Applicability. All wireless telecommunication facilities, any portion of which are located within the Village, shall be subject to this ordinance.

c. Standards.
   i. Location.
      (1) In the Industrial District, wireless telecommunication facilities shall not extend more than 20 feet above the maximum height limitations contained in the Official Schedule of District Regulations.
      (2) In any district other than the Industrial District, wireless telecommunication facilities shall only be installed in or on an existing structure but not extending more than 20 feet above the structure.
   ii. Construction. All wireless telecommunication facilities shall be certified to be structurally sound by an engineer licensed in the State of Ohio and, at a minimum, to conform to the Ohio Basic Building Code.
   iii. Color and Appearance. All wireless telecommunication facilities shall be painted a non-contrasting gray or similar color to minimize visibility, unless otherwise required by the federal or state agency having jurisdiction over wireless telecommunication facilities.
   iv. Advertising Prohibited. No advertising shall be placed anywhere upon or attached to the wireless telecommunication facilities.
   v. Security Enclosure Required. All wireless telecommunication facilities shall be enclosed as required in the conditional use permit. Emergency personnel and co-locators shall have reasonable access. No fence shall be required on top of a building or other structure if access to the roof is secure.
   vi. Existing Vegetation and Buffer Plantings. Existing vegetation (trees, shrubs, etc.) shall preserved to the maximum extent possible. Buffer plantings shall be located around the perimeter of the security enclosure as required in the conditional use permit. An evergreen screen may be required around the perimeter of the property in lieu of such buffer plantings.
   vii. Access Control and Emergency Contact. "No Trespassing" signs shall be posted around the wireless telecommunication facilities, along with a telephone number of the owner or operator of the facilities to contact in the event of an emergency.
   viii. Accessory Building. If the applicant proposes to locate equipment in a separate structure, not located in or attached to the primary building, the structure shall comply with the accessory building regulations of the district.
   ix. Lighting Restricted. Illumination of wireless telecommunication facilities shall comply with requirements of the federal or state agency having jurisdiction, and as required by the Board of Zoning Appeals for purposes of security.

d. Co-Location. All wireless telecommunication facilities shall be subject to the following co-location requirements.
   i. No wireless telecommunication facilities shall be constructed in the Village unless the facilities are capable of accommodating at least one additional wireless telecommunication facility owned by another person or company.
   ii. A conditional use permit shall be issued for wireless telecommunication facilities only if there is no technically suitable space reasonably available on

an existing tower or structure within the geographic area to be served. With the conditional use permit application, the applicant shall list the location of all wireless telecommunication facilities within a reasonable proximity that could support the proposed facility. The applicant must demonstrate that a technically suitable co-location is not reasonably available within such area. If wireless communication facilities owned by another party within such area are technically suitable, applicant must show that an offer was made to the owner of such facilities to co-locate, and the offer was not accepted. If such co-location offer has not been attempted by the applicant, then such other facilities shall be presumed to be reasonably available.

e. Abandonment.
   i. An owner of wireless telecommunication facilities shall give at least 30 days' notice to the Zoning Inspector when the owner determines to discontinue use of the facilities and the date the use will cease.
   ii. If the use of the facilities is discontinued for 180 consecutive days, the Zoning Inspector shall give notice to the owner to either reactivate use of the facilities within 180 days, or dismantle and remove the facilities. Said period excludes any dormancy period between construction and the initial use of the facilities.
   iii. If the owner does not dismantle and remove the facilities by said deadline, the Village may remove the facilities and assess the owner the cost of said removal.
   iv. The owner may request a hearing before the Board of Zoning Appeals to extend said deadline. Said hearing shall be held in compliance with the procedures specified in this ordinance.

f. Application Supplement. In addition to the information required for a conditional use permit application, the following documents shall be provided for wireless telecommunication facilities:
   i. Plot Plan. The plot plan shall indicate all buildings and land uses within 400 feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
   ii. Technical Necessity. The applicant shall demonstrate that the wireless telecommunication facilities must be located where proposed in order to provide adequate coverage to the applicant's service area, including an explanation of why the proposed site is technically necessary. The technical necessity shall be supported by the report of a radio frequency engineer.
   iii. Site Landscaping Plan. The applicant shall submit a site landscaping plan showing the following:
      (1) Placement of the wireless telecommunication facilities on the site.
      (2) The location of existing structures, trees, and other significant site features.
      (3) Type and locations of plant materials used to screen the facilities.
      (4) The proposed color of the facilities.
   iv. Co-Location and Removal Agreement. The applicant shall present signed statements indicating that:
      (1) The applicant agrees to allow for the potential co-location of additional

wireless telecommunication facilities by at least one other provider on the applicant's structure or within the same site location.

(2) The applicant agrees to remove the facilities within 180 days after the use is discontinued, or said facilities shall be removed by the Village at the owner's cost.

SECTION 518 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS (Revised 8/21/06)

In granting a conditional use, the Board of Zoning Appeals may prescribe certain appropriate supplementary conditions and safeguards in compliance with this ordinance. A violation of any of said conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this ordinance.

SECTION 519 PUBLIC HEARING AND BURDEN OF PROOF (Revised 8/21/06)

1. Upon receipt of an appeal, a variance application, or a conditional use application, the chair of the Board of Zoning Appeals shall schedule a public hearing of the board to consider the appeal or application. Said hearing shall be held no less than 10 nor more than 45 days after the filing of the appeal or application.
2. The burden of proof at the hearing shall at all times rest with the appellant or applicant. The appellant or applicant shall demonstrate by a preponderance of the evidence the grounds for the appeal, or that all standards and conditions imposed by this ordinance have been fully satisfied. If said burden of proof is not met, the appeal or application shall be denied by the Board of Zoning Appeals.

SECTION 520 NOTICE TO ALL PARTIES IN INTEREST

Notice of said public hearing of the Board of Zoning Appeals shall be given by the Zoning Inspector to the appellant or applicant, to all persons whose property is the subject of the appeal or application, to all persons whose property is contiguous to and across the street from the subject lot, and to all other persons who may have a substantial interest in or be substantially affected by the appeal, the variance, or the conditional use, at least 10 days before the hearing date. Said notice shall specify the date, time, and place of the hearing and give a brief description of the nature of the appeal filed, the variance sought, or the conditional use sought. Failure of service of any of said notices shall not invalidate any decision made by the Board of Zoning Appeals.

SECTION 521 PUBLICATION NOTICE

Notice of said public hearing shall be published one (1) time by the Zoning Inspector at least 10 days before the hearing date in the newspaper used by the Village Clerk-Treasurer to publish the enactment of legislation by the Village Council. Said publication notice shall specify the

date, time, and place of the hearing and give a brief description of the nature of the appeal filed, the variance sought, or the conditional use sought.

SECTION 522 HEARING PROCEDURES

The hearing shall comply with the requirements imposed by ORC Chapter 2506. The appellant, applicant, or any interested party may appear in person and by counsel at said hearing, examine all witnesses, and present grounds to support the appeal or application, or to oppose same. All testimony adduced at the hearing shall be given under oath, and shall pertain to relevant facts. General testimony concerning opinions and feelings about a matter before the Board of Zoning Appeals shall not constitute reliable, probative evidence for the Board of Zoning Appeals to consider. If the appellant, applicant, or any interested party wishes to have a stenographic record made of said hearing, the appellant, applicant, or interested party shall arrange for and pay the costs of same. The hearing may be adjourned from time to time to another date, time, and place by a majority vote of the Board of Zoning Appeals members present at the hearing (even if a quorum is not present at said hearing) without further notice other than by announcement at the hearing at which such adjournment is taken.

SECTION 523 ACTION ON APPEAL, VARIANCE APPLICATION, OR CONDITIONAL USE APPLICATION

The Board of Zoning Appeals shall render a decision within 30 days after concluding its hearing. The deadline may be extended by mutual agreement between the appellant or applicant and the Board of Zoning Appeals. At a minimum, the board's decision shall:

1. Be in writing, signed by the chair, and shall contain the date it is mailed to the appellant or the applicant.
2. Contain the case number, the name of the appellant or applicant, and a brief description of the matter before the board.
3. Specify the findings of fact upon which the decision is based.
4. Contain a clear pronouncement of the board's decision, the board's vote on said decision, and a statement that it is a final decision, subject to appeal as provided in § 524.

Immediately after said decision is made, the Zoning Inspector shall send a signed copy of the board's decision to the appellant or applicant in the same manner as notice is to be given pursuant to the provisions of this ordinance.

1. For an appeal of the Zoning Inspector's decision, the Board of Zoning Appeals shall either affirm the Zoning Inspector's decision, affirm it but impose supplementary conditions and safeguards as authorized by §509, or overrule the decision. Any decision other than one to affirm the Zoning Inspector's decision without imposing supplementary conditions and safeguards shall require a vote of not less than a majority of all the members of the Board of Zoning Appeals.
2. For a variance application, the Board of Zoning Appeals shall either grant the application, grant it but impose supplementary conditions and safeguards as authorized

by §512, or deny the application. If a variance is granted, the decision shall also contain a finding that the standards imposed by paragraph 2 of §511 have been met by the applicant and that the reasons set forth in the application justify granting the variance to make possible a reasonable use of the lot, building, or other structure. Any decision other than one to deny the variance shall require a vote of not less than a majority of all the members of the Board of Zoning Appeals.

3. For a conditional use application, the Board of Zoning Appeals shall either grant the application, grant it but impose supplementary conditions and safeguards as authorized by §515, or deny the application. If a conditional use is granted, the decision shall also contain a finding that the general standards and specific criteria imposed by §§516 and 517 have been met by the applicant and that the reasons set forth in the application justify granting the conditional use to make possible a reasonable use of the lot, building, or other structure. Any decision other than one to deny the conditional use shall require a vote of not less than a majority of all the members of the Board of Zoning Appeals.

SECTION 524 APPEAL TO THE COMMON PLEAS COURT (Revised 8/21/06)

1. The decision of the Board of Zoning Appeals may be appealed to the Ashtabula County Common Pleas Court pursuant to ORC Chapter 2506. Said appeal must be filed within 30 days of the date of the decision of the Board of Zoning Appeals.
2. Said appeal may be filed by the appellant or applicant, or by the village of so authorized by a resolution of the Andover Village Council. An appeal by the village may be filed only on the grounds that the appellant or applicant did not meet the burden of proof established by this ordinance.

SECTION 525 RESUBMISSION OF APPLICATION (Added 8/21/06)

No application for a variance or a conditional use permit which has been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted for the board's consideration within 2 years from the date of the board's decision, except on the grounds of newly discovered evidence or changed conditions which would be sufficient to justify reconsideration by the board.