

SECTION I. GENERAL PROVISIONS

A. **Purpose of the Zoning Code**: This Zoning Code is adopted for the purposes of promoting public health, safety, morals, comfort, and general welfare; to conserve and protect property and property values; to secure the most appropriate use of land; and to facilitate adequate but economical provision of public improvements, all in accordance with a comprehensive plan, Bolivar Village, Ohio, finds it necessary and advisable to regulate the location, bulk, number of stories and sizes of buildings and other structures, including tents, cabins, and trailer coaches, percentages of lot areas which may be occupied, setback building lines, sizes of yards, courts, and other open spaces, the density of population, the uses of buildings and other structures including tents, cabins, and trailer coaches, and the use of land for trade, industry, residence, recreation, or other purposes, and for such purposes divide the Village of Bolivar into districts or zones.

B. **Authority and Title**: This Zoning Code is adopted under the provisions of O.R.C. Chapters 713.06 to 713.15, as may be amended. This Code shall be known as the “Zoning Code of the Village of Bolivar, Ohio” and may be cited as such, as the “Zoning Code.”

C. **Interpretation**: In their interpretation and application, the provisions of the Zoning Code shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of the Zoning Code are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards shall govern, to such extent that this is permissible by law.

D. **Severability**: Should any section or provision of the Zoning Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Zoning Code as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

E. **Repeal and Effective Date**: All ordinances or parts of ordinances in conflict with this Zoning Code or inconsistent with the provisions of this Zoning Code as of the date of this Code’s adoption are hereby repealed to the extent necessary to give this Zoning Code full force and effect. The Zoning Code shall become effective from and after the date of its approval and adoption by the Village Council for the Village of Bolivar, as provided by law.

F. **Errors and Omissions**: If a manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the

provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted or substituted as will conform with the manifest intention and the provision shall have the same effect as though the correct word were contained in the text as originally published. No such alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

G. **Relationship to Existing Zoning Code:** This Zoning Code is adopted in whole and is a replacement of the Zoning Code of the Village of Bolivar, as amended, which was repealed and replaced by Council effective February 16, 2015.

H. **Relationship to Village Comprehensive Planning:** It is the intention of Council that this code shall implement the planning policies adopted by Village Council for Bolivar, as reflected in a comprehensive plan, land use plan, and all other planning documents formally adopted by the Council. While the Council reaffirms its commitment that this Code and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

I. **Relationship to Public Works and Buildings:** Nothing in this Zoning Code shall be construed to prevent the Village of Bolivar from constructing, repairing or maintaining public works or public buildings in the Village.

J. **Official Zoning Map:** The districts established in this Zoning Code are shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted as part of the Zoning Code. The district boundaries shown thereon are legally described as follows:

1. **Identification of the Official Zoning Map.** The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Village Clerk or Fiscal Officer, and bearing the seal of the Village of Bolivar under the following words: "This is to certify that this is the Official Zoning Map referred to in Section I of the Zoning Code of the Village of Bolivar, Ohio," together with the date of the adoption of the Zoning Code. Copies of the Official Zoning Map may be obtained from the Village at a cost of \$40.00 per map.

2. **Changes to Official Zoning Map.** If, in accordance with the provisions of the Zoning Code and O.R.C. Chapter 713, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within thirty (30) days after the amendment has been approved by

Council. No changes of any nature shall be made to the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in the Zoning Code.

3. **Replacement of Official Zoning Map.** In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, a new Official Zoning Map, which shall supersede the prior Official Zoning Map, shall be prepared. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendments thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the Village Clerk or Fiscal Officer, and bearing the seal of the Village of Bolivar under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (insert date of adoption of map being replaced).”

4. **Interpretation of District Boundaries.** Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Official Zoning Map, the following rules shall apply:

a. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries;

b. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries;

c. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map;

d. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of such railroad line; and

e. Where the boundary of a district follows a stream, lake, or other body of water, such boundary line shall be deemed to be at the limit of the jurisdiction of the Village, unless otherwise indicated.

SECTION II. DEFINITIONS

A. **Rules of Interpretation**: For the purposes of this Zoning Code, certain terms and words are defined as set forth in this Section. Any words not defined in this Section shall be given their customary and ordinary meaning. Words used in the present tense include the future; the singular number includes both the plural and the singular; the term “used for” includes the meaning “designed for”; and the word “structure” includes the word “building”. The word “shall” is mandatory and not discretionary, the word "may" is a permissive requirement, and the word "should" is a preferred requirement; and the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

B. **Definitions**:

1. "Access Drive" or "Access Road" means a way or means of approach to provide physical entrance to a property, as in a private drive or road, a driveway, or curb cut.
2. "Accessory Structure or Use" means a structure of use that: (1) is subordinate in area, extent, and purpose to the principal use; (2) contributes to the comfort, convenience, or necessity of the principal use; and (3) is located on the same lot and in the same zoning district as the principal use.
3. "Advertising" means an announcement or public notice, paid for or otherwise, drawing attention to some product, good, service, company, organization, need, cause, event, or item.
4. "Advertising, Long-Term" means advertising which is meant to remain in place on a permanent or near-permanent basis.
5. "Advertising, Short-Term" means advertising which is meant to be limited in duration. Common examples of short-term advertising include yard sale signs, signs for a particular event, or signs indicating that a property is for sale.

6. "Agriculture" means the use of land for farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.
7. "Agriculture, Limited" means gardening, agriculture, horticulture, or floriculture that is located on a property which is less than two (2) acres and is primarily cultivated for personal, rather than commercial, use. Limited agriculture does not include the keeping of farm animals.
8. "Alley" or "Lane" means a public or private way not more than thirty feet wide affording only secondary means of access to abutting property.
9. "Alteration" means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.
10. "Animal Hospital" means a place which animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.
11. "Apartment" means a suite of rooms forming one residence, typically in a building containing a number of these.
12. "Attic" means that part of a building which is immediately below and wholly or partly within the roof framing.

13. "Automobile" means a self-propelled free moving vehicle, with four or more wheels, primarily for conveyance on a street or roadway.
14. "Automobile Convenience Market" means a place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience food market or supermarket.
15. "Automobile Repair Services" and "Automobile Repair Garage" means establishments primarily engaged in furnishing automobile repair, rental, leasing, and parking services to the general public.
16. "Automobile Service Station" means an establishment where gasoline and other petroleum products are sold as the principal use of the property. Light maintenance activities such as engine tune-ups, lubrication, and minor repairs may also be provided if incidental to such principal use. Service stations do not include premises where retail sales space exceeds 25 percent of the total building area or 500 square feet of gross floor area, whichever is less. Service stations do not include premises where heavy automobile maintenance activities, such as engine overhauls, automobile painting, and bodywork, are conducted.
17. "Automobile Wash" and "Automatic Car Wash" means any building or premises or portions thereof where mechanical devices are used for washing automobiles.
18. "Automotive, Mobile Home, Trailer, and Farm Implement Sales" means the sale or rental of new and used motor vehicles, mobile homes, trailers, or farm implements, but not including repair work except incidental warranty repair of same to be displayed and sold on the premises.

19. "Automotive Wrecking" means the dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.
20. "Basement" means a story all or partly underground but having at least one-half (1/2) of its height below the average level of the adjoining ground.
21. "Bedroom" means a private room planned and intended for sleeping, separable from other rooms by a door, and accessible to a bathroom without crossing another bedroom or living room.
22. "Best Efforts" means the best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, safety, expedition, available technology, human resources and cost.
23. "Billboard or Off-Premise Sign" means a sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.
24. "Boarding House", "Rooming House", or "Tourist Home" means a private house having furnished rooms to rent to lodgers.
25. "Buffer" means a strip of land, fence, or border of trees, etc., between one use and another, which may or may not have trees and shrubs planted for screening purposes, designed to set apart one use area from another.
26. "Buildable Area" means the area of a lot remaining after the minimum yard and open space requirements of the Zoning Code have been met.

27. "Builder" means a person who builds or contracts to build a building or structure within the Village of Bolivar.
28. "Building" means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.
29. "Building, Accessory" means a subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.
30. "Building Coverage" means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.
31. "Building Height" means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.
32. "Building Line" means a line parallel to the street line at a distance there from equal to the depth of the front yard required for the zoning district in which the lot is located.
33. "Building, Principal" means a building in which is conducted the main or principal use of the lot on which the building is situated.
34. "Building Permit" means an official certificate of approval issued by the Village of Bolivar authorizing a

builder to construct or change the footprint of a building or structure.

35. "Building Envelope" means the area designated by the developer or builder for the construction of the principal building(s) upon the site in accordance with the following:

(a) In platted residential subdivisions or residential site condominiums. The buildable area remaining on the lot, parcel or unit after complying with zoning setback and maximum lot or site coverage requirements, or such smaller building area designated by the developer for construction of building upon a lot, parcel or unit within the development.

(b) In all other developments. The building area(s) plus ten (10') feet around the perimeter of the building(s) provided such areas do not encroach into any required setback.

36. "Carport" means a roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than three sides.

37. "Carry-Out Restaurant" means an establishment which by design of physical facilities or by service or packaging procedures permits or encourages the purchase of prepared ready-to-eat foods intended primarily to be consumed off the premises, and where the consumption of food in motor vehicles on the premises is not permitted or not encouraged.

38. "Cemetery" means land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

39. "Census Tract" means areas into which communities are divided by the U.S. Department of Commerce, Bureau of the Census, for statistical purposes.
40. "Certificate of Zoning Compliance" means a statement, signed by an administrative officer, setting forth that a building, structure, or use complies with the zoning code and building codes and that the same may be used for the purposes stated on the permit.
41. "Channel" means a natural or artificial watercourse of perceptible extent, with bed and banks to confine and conduct continuously or periodically flowing water.
42. "Charitable Organization" means any tax-exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic, or youth athletic park organization, or any other organization as defined by ORC 2915.01, as amended.
43. "Child Care or Day Care Center" means a private establishment enrolling children and where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed or approved to operate as a day care center.
44. "Chimney" means a structure lesser in function than a smoke stack and containing one or more flues for drawing off emissions from stationary sources of combustion.
45. "Church" or "House of Worship" means a building or structure or groups of buildings or structures which by design and construction are primarily intended

for the conducting of organized religious services and accessory uses associated therewith.

46. "Clinic" means a place used for the care, diagnosis and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical and surgical attention, but who are provided with board or room or kept overnight on the premises.
47. "Club" means a building or portion thereof or premises owned or operated by a person for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests/
48. "Commercial Nursery or Tree Farm" means a plant or tree nursery or farm in which trees are planted and grown for sale to the general public in the ordinary course of business.
49. "Commercial Entertainment Facilities" means any profit-making activity which is generally related to the entertainment field, such as motion picture theaters, carnivals, nightclubs, cocktail lounges, and similar entertainment activities.
50. "Commercial Use" means any activity carried out for pecuniary gain.
51. "Community Association" or "Homeowners Association" means an association organized to own, maintain, and operate common facilities and to enhance and protect their common interests.
52. "Comprehensive Plan" means a plan, or any portion thereof, adopted by the Planning and Zoning Commission and/or Council showing the general location and extent of present and proposed physical facilities including housing, industrial

and commercial uses, major streets, parks, schools, and other community facilities. This plan establishes the goals, objectives and policies of the community.

53. "Conditional Use" means a use of occupancy of a structure, or a use of land, permitted only upon issuance of a conditional use permit and subject to the limitations and conditions specified herein.
54. "Conditional Use Permit" means a permit issued by the Zoning Inspector upon approval by the Board of Zoning Appeals to allow a use other than a principally permitted use to be established within the district.
55. "Condominium" means a building or group of buildings in which units are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.
56. "Condominium Association" means the community association which administers and maintains the common property and common elements of a condominium.
57. "Construction" means on-site erection, fabrication, installation, alteration, demolition, or removal of a structure, facility, or addition thereto, including all related activities, but not restricted to clearing of land, earth moving, blasting and landscaping.
58. "Convenience Food Market" means a retail establishment offering for sale limited food, beverage and related consumer products with or without on premises preparation of food and beverages.
59. "Council" means the Council of the Village of Bolivar.

60. "Crawl Space" means a space with more than one-half ($\frac{1}{2}$) of its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of less than six and one-half ($6\frac{1}{2}$) feet.
61. "Decorative Features" means any approved natural or constructed feature, including mulch, gravel, stone, brick, sculpture, and lighting.
62. "Density" means the number of dwelling units per unit of land. To determine density divide the total number of dwelling units by the net developable site as measured in acres.
63. "Detention Basin" means a structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate.
64. "Developer" means a person who installs or contracts for the installation of improvements such as sewers, streets and water mains in a residential, office, commercial, or industrial development.
65. "Drive-In Restaurant" means a building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.
66. "Drive-In Use" means an establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

67. "Drive-up Window Service" means a building opening, including windows, doors, or mechanical devices through which occupants of a motor vehicle receive or obtain a product or service.
68. "Driveway Envelope" means an area designated by the developer or builder not more than twenty (20') feet in width to provide vehicular access to the building or parking areas.
69. "Dwelling" means a structure or portion thereof in which person or persons reside.
70. "Dwelling, Attached" means a one-family dwelling attached to two (2) or more one-family dwellings by common vertical walls.
71. "Dwelling, Detached" means a dwelling which is not attached to any other dwelling by any means.
72. "Dwelling, Multi-Family" means a dwelling containing more than two dwelling units.
73. "Dwelling, Semidetached" means a one-family dwelling attached to one (1) other one-family dwelling by a common vertical wall, and each dwelling located on a separate lot.
74. "Dwelling, Single Family" means a building consisting of a single dwelling unit only, separated from other dwelling units by open space.

75. "Dwelling, Townhouse" means a one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more common fire resistant walls.
76. "Dwelling, Two-Family" means a structure on a single lot containing two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
77. "Dwelling Unit" means one (1) or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.
78. "Dwelling Unit, Efficiency" means a dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.
79. "Easement" means a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.
80. "Excavation" means the removal or recovery by any means whatsoever of soil, rock, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.
81. "Factory Built Housing" means a factory built structure designed for long-term residential use, the components of which are essentially constructed or assembled

prior to its delivery to and installation upon a site. Factory built housing shall include the following:

(a) **Manufactured Home** - A non-self-propelled building unit or assembly of closed construction fabricated in an off-site facility, and which conforms with the federal construction and safety standards established by the Secretary of Housing and Urban Development (HUD) pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974, and that has a label or tag permanently affixed to it certifying compliance with all applicable federal construction and safety standards. A manufactured home is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis, designed to be used as a dwelling with or without permanent foundation when connected to required utilities. Calculations used to determine the numbers of square feet in a structure's exterior dimensions are measured at the largest horizontal projection when erected on site. These dimensions include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows."(ORC 4501.01) For the purposes of this section, chassis means a steel frame specifically designed and constructed with wheels or running gear and towing tongue installed for transportation on public streets or highways and designed without the need for a permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks, or other foundation, connection to utilities and the like.

(b) **Mobile Home** - A non-self-propelled building unit or assembly of closed construction that is fabricated in an off-site facility, built on a permanent movable chassis which is eight (8) feet or more in width and more than thirty-five (35) feet in length, which when erected on site is three hundred twenty (320) or more square feet, that is transportable in one or more sections and which does not qualify as a manufactured home or industrialized unit.

(c) Industrialized Unit - A building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as a part of a greater structure and that requires transportation to the site of intended use. Industrialized unit includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. Industrialized unit does not include a manufactured or mobile home as defined herein.

(d) Modular Home - Factory built housing certified as meeting the local or state building codes as applicable to modular housing. Once certified by the state, modular homes shall be subject to the same standards as site built homes. Modular homes are required to be placed upon a solid masonry foundation.

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

83. "Family Home" means a residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for six to eight mentally retarded or developmentally disabled persons.

84. "Farm" means a parcel of land used for agricultural activities.

85. "Farm Animals" means those animals or livestock typically associated with a farm or agricultural operation, including but not limited to cows, horses, pigs, chickens, roosters, sheep, and bulls.

86. "Farm Stand" means a booth or stall located on a farm from which produce and farm products are sold to the general public.

87. "Fast-Food Restaurant" means an establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises.
88. "Floodway Fringe" means that portion of the flood plain, excluding the floodway, where development may be allowed under certain restrictions.
89. "Flood Insurance Rate Map (FIRM)" means the official map(s) on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
90. "Flood Insurance Study" means the official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
91. "Flood Plain" means the land, including the floodway fringe and the floodway, subject to inundation by the regional flood.
92. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-half foot.
93. "Floor Area, Finished" means the sum of the gross horizontal area of all interior floors of a residential building that are finished and heated, excluding basements, breezeways, carports, garages, storage areas with only outside access, porches, and other unheated and/or unfinished areas attached to the dwelling.

94. "Floor Area, Gross" means the sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six (6) feet.
95. "Floor Area, Ground" means the sum of the gross horizontal area of the ground floor of a residential building, excluding basements, breezeways, carports, garages, storage areas with only outside access, porches, and other unheated and/or unfinished areas attached to the dwelling.
96. "Floor Area, Net" means the total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.
97. "Floor Area, Non-Residential" (used in calculating parking requirements) means the floor area of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, fitting rooms, and similar areas.
98. "Franchise" means the nonexclusive right pursuant to the Constitution and laws of Ohio and/or the United States, granted by the Village pursuant to its current franchise agreement to operate or provide cable television or services to consumer within the Village.
99. "Gambling Operation" means a business operated primarily for the purposes of providing customers with the opportunity to engage in games of chance, as defined by ORC 2915.01, as amended.

100. "Game of Skill Operation" means a business operated primarily for the purposes of providing customers the use of "Skill-based amusement machines" as defined by ORC 2915.01.
101. "Garage" means a deck, building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles.
102. "Garage Sale" means the sale or offering for sale to the general public of over five (5) items of personal property on any portion of a lot in a residential zoning district, whether within or outside any building.
103. "Gas Station" - See Automobile Service Station
104. "Grade" means the average level of the finished surface of the ground adjoining a building.
105. "Gross Developable Acres" means the land area within a subdivision including areas dedicated to the public; including parks, open space, public right-of-ways, and utility easements.
106. "Group Home" means a residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for nine to sixteen mentally retarded or developmentally disabled persons.
107. "Home Occupation" means any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

108."Hot Tub" means an artificial container of water with a liquid capacity greater than 100 gallons and designed with a mechanical air injection system and/or recirculating devise. These devises may filter and/or disinfect the water for reuse and are not intended to be drained between uses.

109."Hotel" or "Motel" means a building or group of buildings in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house as herein defined.

110."Industrial Park" means a large tract of land that has been planned, developed, and operated as an integrated facility for a number of individual uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

111."Industrialized Unit" see Factory Built Housing

112."Inoperable Vehicle" means a vehicle that is not mechanically operable and/or that lacks all four tires.

113."Institutional Use" means a nonprofit or quasi-public use or institution such as a church or similar house of worship, library, public or private school, hospital, or publicly-owned or operated building, structure or land used for public purpose.

114."Junkyard" means any area, lot, land, parcel, building, or structure or part thereof used for the storage, collection, processing, purchase, sale, or abandonment of wastepaper, rags, scrap metal, or other scrap or discarded goods, materials, machinery, or two (2) or more unregistered, inoperable motor vehicles or other type of junk.

115. "Kennel, Commercial" means any building or buildings and/or land used, designed or arranged to facilitate the raising, breeding, boarding and grooming of such domesticated animals as dogs and cats for profits. Farm animals such as pigs and fowl or exotic animals, such as snakes, are expressly prohibited.
116. "Kennel, Private" means any building or buildings and/or land used, designed or arranged for the care of three (3) or more dogs and/or cats belonging to the owner of the principal use, kept for purposes of show, hunting, or as pets.
117. "Land Clearing" means operations which remove trees and vegetation in connection with the installation of storm or sanitary sewers, public or private utilities, street, and any other clearing or grading of the property at any time prior to construction of a building.
118. "Landscaping" means any portion of a parcel of land that includes trees, shrubs, bushes, planting bed, hedges, earth mounds or other natural or decorative material or feature.
119. "Loading space, Off-Street" means space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.
120. "Lot" (including the words "Plot", "Parcel" and "Premises") means a designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit.

121. "Lot, Corner" means a lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.
122. "Lot Coverage" means the portion of the lot that is covered by buildings and structures.
123. "Lot, Double Frontage" means a lot which fronts upon two parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot.
124. "Lot, Buildable" means a lot having the required street frontage as required by the zoning district on an improved public right-of-way and the required square footage for the appropriate district in which it is located.
125. "Major Thoroughfare Plan" means the comprehensive plan adopted by the Planning and Zoning Commission and/or Regional Planning and Zoning Commission indicating the general location recommended for arterial, collector, and local thoroughfares within the corporate limits and/or unincorporated areas within three miles thereof.
126. "Maintenance and Storage Facilities" means land, buildings, and structures devoted primarily to the maintenance and storage of construction equipment and material.
127. "Mandatory Land Dedication" means the mandatory dedication of private land to Bolivar for the purpose of providing space for park, recreation, open space and other public uses.

128."Manufactured Home" See Factory Built Housing

129."Manufacturing" means the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

130."Manufacturing, Heavy" means the manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the district boundary.

131."Manufacturing, Light" means the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing.

132."Mayor" means the Mayor of Bolivar.

133."Mini-Warehouse" means a structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

134."Mobile Home". See Factory Built Housing

135."Mobile Home (Trailer) Park" means any site or tract of land under single or multiple ownership, upon which three (3) or more mobile or manufactured homes

used for habitation are parked, either free of charge or for revenue purposes, including any roadway, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code, over which the Public Health Council has exclusive rule making power.

136. "Modular Home". See Factory Built Housing

137. "New and Used Vehicle Commercial Sales" means any business which sells new or used vehicles at a commercial level

138. "Net Developable Acres" means the land area within a subdivision excluding the minimum open space requirements, all areas designated for public and private streets and alleys, open bodies of water including streams, creeks and ditches, retention and detention areas and all other dedicated right-of-way.

139. "No-Build Zone" means an area or portion of a lot that is designated by deed not to contain any buildings, structures or other built improvement on a permanent basis.

140. "Nonconformance" means a situation wherein the lawful conditions existing prior to the adoption, revision or amendment of the Zoning Code fail by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

141. "Nonconforming Lot" means a lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the Zoning Code, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

142. "Nonconforming Structure or Building" means a structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to the Zoning Code, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

143. "Nonconforming Use" means a use or activity which was lawful prior to the adoption, revision or amendment of the Zoning Code, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

144. "Nursing Home" means an extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

145. "Off-Street Parking Space" means a temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way.

146. "On-Street Parking Space" means a temporary storage area for a motor vehicle which is located on a dedicated street right-of-way.

147. "One-and-a-Half-Story" means a residential dwelling having a ground floor and a second floor equal to less than one hundred (100) percent of the finished floor area of the first floor, under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls (also known as "knee wall") are not more than five (5) feet above the floor of such story.

148. "Opacity" means a degree of obscuration of light.

- 149."Open Space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.
- 150."Open Space, Common" means land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.
- 151."Operations" means locating, moving, depositing, or grading of any material or any construction, use of activity, or combination of such activities, which modifies the conditions of property subject to this Zoning Code.
- 152."OUPS" means the Ohio Utilities Protection Service.
- 153."Outdoor Display" means the temporary outdoor display of material and merchandise for the purposes of retail sales.
- 154."Outdoor Storage" means the keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place.
- 155."Overlay District" means a type of zoning district that applies more restrictive standards to an underlying zoning district.
- 156."Parish House" means a residential structure, such as a parsonage, that is subordinate to a church or other place of worship.

157. "Park" means a tract of land designated and designed for the use by members of the public for active and passive recreation.

158. "Performance Bond" or "Surety Bond" means an agreement by a subdivider or developer with the Village for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement.

159. "Permittee" means any person issues a permit pursuant to this Zoning Code.

160. "Person" means any person, corporation, partnership, company, contracting firm or other entity, including those employed by the Village or under a contract with the Village.

161. "Personal Services" means establishments primarily engaging in providing services involving the care of a person or his or her apparel.

162. "Planning and Zoning Commission" means the body of five members created by the Village in compliance with the Ohio Revised Code to administer planning and land use regulations and provide recommendations on a wide array of land use and land use policy issues.

163. "Plat" means a map representing a tract of land, showing the boundaries and location of individual properties and streets. A portable structure map of a subdivision or site plan.

164. "Principal Use" means the primary or predominant use of any lot.

165. "Public Use" means a land use that is owned and/or operated by the public and is accessible to the public.
166. "Public Way" means an alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.
167. "Reconstruction" means the rebuilding or substantial remodeling of an existing structure.
168. "Recreational and Camping Equipment" means boats, boat trailers, snowmobiles, snowmobile trailers, utility trailers, recreational and camping vehicles, horse trailers, and other similar equipment.
169. "Recreational and Camping Vehicles" means vehicular-type structures primarily designed as temporary living quarters for recreation, camping or travel use which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered.
170. "Recreation, Camp" means an area of land on which two or more travel trailers, campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, including any building structure, or fixture of equipment that is used or intended to be used in connection with providing such accommodations.
171. "Recreation Facilities" means public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and

the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to hunting, fishing, and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, amusement parks, stadiums, and bowling alleys.

172."Regulation" means any rule adopted by and pursuant to the authority of this Zoning Code.

173."Residential Development" means any one-family or multiple-family residential development, including one-family residential subdivisions, one-family cluster housing, residential condominiums, residential site condominiums and multiple-family developments.

174."Residential District" means a zoning district in which residential uses are the only permitted uses, with certain listed exceptions.

175."Restrictive Covenant" means a restriction on the use of land usually set forth in the deed.

176."Retail Services" means establishments providing services or entertainment as opposed to products.

177."Retention Basin" means a wet or dry stormwater holding area, either natural or manmade, which does not have an outlet to adjoining watercourses or wetlands other than an emergency spillway.

178."Right-of-way" means the surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path,

public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement now or hereafter held by the Village.

179. "School" means any building or portion thereof which is designed, constructed or used for educational or instruction in any branch of knowledge.

180. "Seat" means the number of seating units installed or indicated, or each twenty-four lineal inches of benches, pews, or space for loose chairs.

181. "Setback" means the minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

(a) "Setback, Front" means the minimum allowable distance from the street right-of-way line to the closest pint of the foundation of a building or projection thereof, parking lot, or retention pond.

(b) "Setback, Rear" means the shortest distance between the building line and the rear lot line.

(c) "Setback, Side" means the shortest distance between the building line and the side lot line.

182. "Setback Line" means the distance measured perpendicularly from either the front, side, or rear property line of the building.

183."Shed" means a freestanding accessory structure or building primarily used for storage purposes. The height and floor area of a shed may vary based on the principal structure.

184."Sidewalk" means that portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

185."Sign" means any device designed to inform or attract the attention of persons not on the property on which the sign is located. The following shall NOT be included in the applications of regulations regarding signs in this Zoning Code:

(a) Signs not exceeding one square foot in area and bearing only the property numbers, name of the occupants of the premises, or other identification of the premises not having commercial connotations;

(b) Flags and insignia of any government, except when displayed in connection with commercial promotion;

(c) Seasonal decorations, except when displayed in connection with commercial promotion;

(d) Legal notices, identificational, informational, or directional signs erected or required by governmental bodies;

(e) Integral decorative or architectural features of buildings;

(f) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

186."Split Level" means a residential dwelling containing finished floor area on two (2) or more levels with not less than three (3) feet nor more than six (6) feet vertical distance between the plane of one floor level and the place of the next higher level.

187."Storage Building" means a structure used for storage of belongings, not accessory to a single-family or duplex residence located on the same building site, not designed for human habitation, and not used for remunerative purposes. This term shall not include agricultural buildings.

188."Story" means that portion of a building, including between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

189."Street" means any vehicular way which: (1) Is an existing state, county, municipal or village roadway; or (2) is shown upon a plat approved pursuant to law; or (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the office of the Tuscarawas County Recorder prior to the appointment of the Planning and Zoning Commission and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved.

190."Street, Collector" means a street which collects traffic from local streets and connects with minor and major arterial.

191."Street, Local" means a street designed to provide vehicular access to abutting property and to discourage through traffic.

192."Street, Major Arterial" means a street with access control, channelized intersections, restricted parking, and which collects and distributes traffic to and from minor arterial.

193."Street, Minor Arterial" means a street with access controls, signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets.

194."Structure" means anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground.

195."Supermarket" means food markets, or combination food markets and department stores with more than 5,000 square feet of floor area.

196."Surveyor" means a surveyor registered by the State of Ohio.

197."Swimming Pool" means any portable pool or permanent structure containing a body of water 18 inches or more in depth and 250 square feet or more of water surface and intended for recreational purposes, including a wading pool, but not including an ornamental reflecting pool or fish pond or other type of pool, located and designed so as not to create a hazard or be used for swimming or wading.

(a) "Community Swimming Pool" means a swimming pool operated with a charge for admission.

(b) "Portable Swimming Pool" means a pool that does not require water filtration, circulation and purification; does not exceed 18 inches in depth; does

not exceed a water surface of 100 square feet; and does not require braces or supports.

(c) "Private Swimming Pool" means a swimming pool exclusively used without paying an additional charge for admission by the residents and guests of a single household, a multi-family development, or a community; the members and guests of a club; or the patrons of a motel or hotel.

198."Trailer" means a structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods or objects, or as a temporary office.

199."Trailer Park" means a property used for the permanent or semi-permanent location of trailers or mobile homes.

200."Travel Trailer" means a recreation vehicle that is towed by a car or truck.

201."Tree" means any self-supported, woody plant of a species which normally grows to an overall height of thirteen (13') feet or more, including coniferous and deciduous trees.

202."Tree, Large" means any tree species which normally attains a full grown height equal to or greater than forty-five (45) feet.

203."Tree, Medium" means any tree species which normally attains a full grown height of between twenty-five (25) and forty-five (45) feet.

204. "Tree, Small" means any tree species which normally attains a full grown height of under twenty-five (25) feet.
205. "Tree Lawn" means that part of a street right-of-way not covered by sidewalk or other paving, lying between the property line and that portion of the street right-of-way that is paved and usually used for vehicular traffic.
206. "Two-Story" means a residential dwelling having a ground floor and a second floor having a finished square footage equal to or exceeding one hundred (100) percent of the required minimum ground floor finished square footage.
207. "Undeveloped" means a parcel of land which is substantially unimproved with buildings or structures on the effective date of this Zoning Code.
208. "Use" means the purpose or activity for which land or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.
209. "Variance" means a departure from any provision of the zoning requirements for a specific parcel, without changing the zoning ordinance or the underlying zoning of the parcel.
210. "Vehicular Use Area" means any area used by vehicles.
211. "Video Rental Store" means an establishment primarily engaged in the retail rental or lease of video tapes, films, DVDs, laser discs, electronic games, cassettes, or other electronic media. Sales of film, videotapes, laser discs, DVDs, and electronic merchandise associated with VCRs, DVD players, video cameras, and electronic games are permitted accessory uses.

212. "Village Administrator" means the Village Administrator of the Village of Bolivar.

213. "Village Clerk" means the Village Clerk for the Village of Bolivar.

214. "Village Fiscal Officer" means the Village Fiscal Officer for the Village of Bolivar.

215. "Yard" means a required open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in the Zoning Code.

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

217. "Yard, Rear" means a yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building. For corner lots the rear yard shall constitute that area of the lot that is adjacent to the rear portion of the principle structure.

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

SECTION III. GENERAL REGULATIONS

A. **Application**: The regulations for each district set forth by the Zoning Code shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

1. No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located;

2. No yard or lot existing at the time of passage of the Zoning Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Zoning Code shall meet at least the minimum requirements set forth herein;
 - (a) To provide for greater height or bulk;

 - (b) To accommodate or house a greater number of families;

 - (c) To occupy a greater percentage of lot area; and

 - (d) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner be contrary to the provisions of the Zoning Code.

B. **Identification of Uses**: Listed uses are to be defined by their customary name or identification, except where they are specifically defined or limited to this Zoning Code.

C. **Permitted Uses**: Only a use designated as a Permitted Use shall be allowed as matter of right in a Zoning District, and any use not so designated shall be prohibited except when the use shall be determined to be in character with the Zoning District, and such additional uses may be added to the Permitted Uses of the Zoning District by amendment of this Zoning Code.

D. **Conditional Uses**: A use designated as a Conditional Use shall be allowed in a Zoning District when such Conditional Use, its location, extent and method of development will not substantially alter the character of the vicinity or unduly interfere with the use of adjacent lots in the manner prescribed for the Zoning District. To this end the Planning and Zoning Commission shall, in addition to the Development Standards for the Zoning District, set forth such additional requirements as will, in its judgment render the Conditional Use compatible with the existing and future use of adjacent lots and the vicinity. A Conditional Use certificate is a condition precedent to the lawful use of a Conditional Use on a property. The procedure for obtaining a Conditional Use permit is set forth in Section XXV.

E. **Conversion to Dwellings**: The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units or households shall be permitted only within a district in which a new dwelling with similar occupancy would be permitted under this Zoning Code, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, percentage of lot coverage, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified hereinafter to such district.

F. **Unsafe Buildings**: Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority. Notice of such restoration shall be provided to the Village.

G. **Platting Required**: No use shall be established or altered and no structure shall be constructed or altered except upon a lot that has been platted in accordance with or which otherwise meets the requirements of the Subdivision Regulations of the Village of Bolivar. Development standards of the Bolivar Zoning Code are minimum requirements, unless otherwise stated, for the arrangement of lots and spaces to be achieved in all developments.

H. **Objectionable Element or Condition of Property**: No land, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises; provided, however, that any use permitted by this Zoning Code may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as determined by the Ohio Revised Code, state or federal regulations, and Village Ordinances.

I. **Development Standards**: The development standards set forth shall be minimum allowed for development in a Zoning District. If the development standards are in conflict with the requirements of any other lawfully adopted rules, ordinances, regulations or laws, the more restrictive or higher standard shall govern.

J. **Modification of Development Standards**: In any district where dwellings are permitted, a permitted residential dwelling(s) may be erected on any lot of official record on the effective date of this Zoning Code even though such lot does not comply with the minimum lot area and minimum width requirements of such district, provided said lot has a minimum of forty (40) feet of frontage on an improved public street and further provided the following conditions are met:

1. If the owner of such lot does not own adjoining property and did not own such property at the time this Zoning Code became effective:
 - (a) Each required side yard may be reduced by two (2) inches for every foot that is narrower than the required lot width at the building line, but in no case shall each required side yard be less than four (4) feet. Such dedications shall not apply to structures higher than two (2) stories.
 - (b) Required rear yards shall be twenty-five (25) percent of the lot depth, but in no case shall be less than fifteen (15) feet.
2. If the owner of such lot owns the adjoining property and owned such property at the time this Zoning Code became effective then in order to erect a dwelling(s) that meets district dimensional requirements, such lots shall be combined to create a parcel that meets said requirements.

3. Administrative Variance. An administrative variance permits the Zoning Inspector to grant administrative relief to the development standards under the following circumstances: (1) the proposed project is a supplement to or the reconstruction of an existing structure; or (2) the proposed new project will not meet the current setback standards but will not exceed them by more than one foot. If the approval of an administrative variance introduces new nonconforming conditions, the application will not be considered.

(a) Application to be Made. Written application for an administrative variance shall be made by the property owner to the Zoning Inspector.

(b) Application Contents. The application for a variance shall contain as a minimum:

i. Name, address, and phone number of the applicant and representative, if any, and the signature of the property owner.

ii. A current and accurate legal description of the property in question.

iii. The nature of the variance requested, including what provisions of the Zoning Code are affected.

iv. A plot plan to show:

a. Boundaries and dimensions of the property and the size and location of all proposed and existing structures.

b. The nature of the special conditions or circumstances.

- c. The proposed use of all parts of the lot and structures.
 - d. Such additional information as may be required by this Zoning Code and/or requested by the Zoning Inspector to review the application.
- (c) Criteria for Approval.
 - i. Is the proposed addition/modification architecturally compatible with the existing structure?
 - ii. Is the proposed addition/modification location compatible with the existing structure and the structures in the neighborhood?
 - iii. Will the approval of the proposed variance improve existing conditions within the neighborhood?
- (d) Review Procedure.
 - i. Filing of Application. One (1) copy of a completed application must be filed with the Zoning Inspector. Upon receipt of the application, the Zoning Inspector will review the submittal and determine whether such application is complete and meets all submittal requirements. Failure to submit a complete application, as determined by the Zoning Inspector, shall result in a rejection of the application.
 - ii. Application Review. Upon receipt of a completed application, the Zoning Inspector has a maximum of ten (10) business days to review the application. The Zoning Inspector must be able to respond positively to all of the criteria listed in 1135.12 (c) (4) in order to approve the variance request. The Zoning Inspector may also approve the variance with modifications or disapprove the variance. In approving a variance(s), the Zoning Inspector may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which the variance is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed herein. The Zoning Inspector's determination in taking action on a requested variance shall be accompanied by findings of fact and a statement of the reasons for the decision reached.

iii. Issuance of a Zoning Certificate. Upon approval of the Zoning Inspector, a Certificate of Zoning Compliance for all approved variances shall be issued to the applicant within ten (10) days of approval. At the monthly Planning and Zoning Commission meetings, the Zoning Inspector shall provide a report outlining the administrative variances granted.

iv. Appeals. Whoever is aggrieved or affected by the decision of the Zoning Inspector involving an application for an administrative variance(s) shall have the right to file an appeal with the Planning and Zoning Commission. The appeal shall be filed no later than ten (10) days after the decision of the Zoning Inspector. At the time of filing, the Zoning Inspector shall turn over to the Planning and Zoning Commission the application and any relevant background information.

4. For a discussion of requests or petitions for all other variances, conditional uses, and rezonings, please see Section XXV.

K. **Vehicle Sales:**

1. Commercial sales of used vehicles and/or new vehicles, including but not limited to trailers, recreational and camping vehicles, motorcycles, all-terrain vehicles, and snowmobiles are permitted within a B/C District provided that the property owner possesses a valid dealer's license. There is no requirement that used vehicles and new vehicles be sold together on the same property. In the event that the same retailer sells or places vehicle parts, tires, rims, and repair equipment on the property, the same shall only be permitted to be stored indoors.
2. Casual sales of a used vehicle are permitted in all districts provided that the vehicle for sale belongs to either the property owner or the tenant on the property where the vehicle is for sale. No more than one vehicle may be sold on a property at any one time.

L. **Sales: Porch, Attic, Garage, or Yard Sales:** For the purpose of this Section, a sale under this section means an offering for sale of miscellaneous personal property at a residence. The definition includes any type of community or neighborhood sale, any organization having a yard sale for charity purposes, and booster clubs having sales. Such sales shall be permitted at a single

location for up to three (3) consecutive days. Only one sale per month is permitted. Sales are permitted only between the hours of 6:00 a.m. and 7:00 p.m. and are limited to residences. The party holding the sale shall have one (1) additional day for set up and one (1) day for tear down beyond the three day limitation.

M. **Produce Stands**: For the purposes of this Section, a produce stand is a temporary structure offering for sale a variety of fruits, vegetables, and other homemade or grown edible items. Produce stands shall be permitted within the limits of the Village of Bolivar with a permit. This permit shall be free of charge, and a permit shall be good for one (1) calendar year. An application for a permit must contain the name and address of the responsible party for each produce stand. All produce stands must be on the permit holder's own property, or the permit holder must have written permission to use another's property for the produce stand, which must be submitted with the permit application.

N. **Parking, Storage, or Use of Recreational and Camping Vehicles**: No recreational or camping vehicle or equipment shall be parked or stored on any lot in a residential district except in an enclosed building. However, such vehicle may be parked anywhere on a residential premises for a time period not to exceed 24 hours during loading or unloading of the vehicle. No such vehicle shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot.

O. **Parking and Storage of Certain Vehicles**: The following provisions and requirements shall pertain to the parking and storage of certain vehicles:

1. The parking and storage, within any district, of automotive vehicles without current license plates, for a period of more than thirty days shall be prohibited unless such vehicle is stored in an enclosed garage or other accessory building.
2. The parking or storage, within any district, of a disabled automotive vehicle for a period of more than thirty days shall be prohibited unless such vehicle is stored in an enclosed garage or other accessory building.

3. The parking or storage, within any district, of a junked, dismantled, or wrecked automotive vehicle or parts thereof which is in the public view of any street or highway for a period of more than thirty days shall be prohibited.

4. The temporary storage of wrecked vehicles in the repair process is permitted on properties within a B/C District for a period not to exceed 30 calendar days. These cars must be kept in an EPA compliant manner and should be placed in such a manner to minimize visibility of these vehicles from all roadways. Any and all parts, tires, and repair equipment must be kept indoors. There shall be no outdoor storage of equipment, tires, rims and vehicle and/or motor parts.

For purposes of this section, a junked, dismantled or wrecked automotive vehicle shall be one which is damaged, or no longer serviceable, to the extent that is operable or is unsafe to operate upon the public streets or highways. This section shall not apply to properly licensed junkyards and motor vehicle salvage facilities which are regulated by appropriate sections of the Ohio Revised Code.

P. **Parking or Keeping Inoperable Motor Vehicles:** No person shall use any premises within the Village of Bolivar for the purposes of parking or keeping an inoperable motor vehicle except when ancillary to a specifically permitted use allowed under this Zoning Code. As used in this section, “keeping an inoperable motor vehicle” means and includes storing, maintaining, collecting, depositing, reserving, allowing to stand, or permitting to remain, one or more inoperable motor vehicles. For purposes of this section, a motor vehicle shall be deemed inoperable when any of the following conditions exist: one or more wheels are missing, one or more tires are missing; two or more tires are flat; one or more windows are missing or broken; the windshield is shattered or missing; parts necessary for the operation of the vehicle are missing; a license with a distinctive number and valid for the current year is not displayed thereon; or the vehicle is incapable of being propelled under its own power.

Q. **Public Park Regulations:**

1. Hours. All parks owned and operated by the Village shall be closed for use by the public between the hours of ten p.m. and five a.m.; provided, however, parks may be

closed temporarily or opening hours extended temporarily in case of emergency, adverse weather conditions, or unusual circumstances as determined and ordered by the Village.

2. Camping. Overnight camping on park property shall not be permitted.

3. Athletic Field. All requests for reservations of athletic fields, courts, or areas shall be allowed only by approval of Council and/or the Village Administrator. Requests for use of athletic fields, courts, or areas shall be submitted to the Village Administrator in letter form within 15 days of the desired date of reservations with the following information: (a) name of group; (b) sponsoring agency; (c) number of individuals involved; (d) designation of park desired; (e) designation of area to be utilized; and (f) the inclusive dates of the reservation.

4. Alcoholic Beverages. The possession and/or consumption of alcoholic beverages or cereal malt beverages are expressly prohibited.

5. Sanitation and Fires. All waste material and refuse of any kind shall be deposited in disposal drums provided for such purpose and no such waste or contaminating material shall be discarded otherwise in or upon park land.

Fires may be built only in the ovens, stoves or ring pits provided by the Village and must be extinguished before leaving the area. Fires may be prohibited entirely as a protective measure from time to time by the posting by the Village of special warning signs and may be part of the conditions upon which special permits or reservations are given.

6. Swimming, Bathing, and Wading. Swimming, bathing and wading are prohibited except at such times and in such locations approved by the Village.

7. Hunting. No person shall pursue, catch, kill or take any wildlife in any public park.

8. Fishing. Fish and game laws of the state of Ohio must be strictly observed while fishing at parks.

9. Skating. No person shall, at any time, skate except upon areas designated by the Village and at such times and pursuant to such rules as the Village has posted.

10. Firecrackers and Fireworks. Firecrackers or fireworks are prohibited, except for fireworks displays on special events and then only as approved upon application to the Village.

11. Domestic Animals. Domestic animals present within a park area shall be subject to all state and local animal control laws and must be on a leash at all times. The Village may

establish rules and regulations in addition thereto to prohibit such domestic animals from certain park areas to prevent damage and provide safe use of park areas.

12. Motor Vehicles Prohibited. Motor vehicles are specifically prohibited from operation within any park areas of the Village except parking lots, access drives to parking lots, and park streets, or areas specifically established by the Village for motor vehicle use. The presence of motor vehicles in parking lots, parking access drives, and park streets between the hours of ten p.m. and five a.m. is prohibited.

13. Vandalism. It is unlawful for any person to commit an act of vandalism in a park area by willfully injuring, damaging, mutilating, defacing, destroying, or substantially impairing any park area or improvement within a park area.

14. Commercial Uses. No park area may be used for any commercial enterprise in any form except wherein the Village is directly involved as a co-sponsor of an event or project.

SECTION IV. SITE DEVELOPMENT PLANS

A. **Site Development Plans Required:** A site development plan is required and shall be submitted for the following:

1. Any use or development, involving new construction, reconstruction or expansion of structures in all zoning districts, except single family detached dwelling units or duplexes in residential districts.
2. Any development in which automobile parking spaces are to be used by more than one (1) establishment.
3. When a change is proposed in the exterior elements of a previously approved site development plan.
4. When an existing residential use is proposed for change to a commercial, industrial, or multi-family residential use. Note that this may also require a petition for a variance or rezoning, depending on the current zoning of the property.
5. All public and/or semi-public buildings and institutions.

B. **Requirements for Development Plans:**

1. Site development plans shall be prepared by persons professionally qualified to do such work. Final site plans shall be certified by an engineer duly registered by the State of Ohio, and include a boundary survey certified by a land surveyor duly registered by the State of Ohio.
2. Every site plan shall show the name of the development, the name and address of the owner and developer, north point, date, scale, and number of sheets.

3. Site development plan may be prepared on one (1) or more sheets to show clearly the information required by this section and to facilitate the review and approval of the plan. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.
4. Site development plans shall be prepared at a scale of one (1) inch equals fifty (50) feet or larger. No sheet shall exceed thirty-six (36) inches in size. Ten (10) copies shall be submitted to the Zoning Inspector for all developments.
5. Profiles must be submitted on standard plan profile sheets. Special studies as required may be submitted on standard cross section paper and shall have a scale of one (1) inch equals fifty (50) feet horizontally and one (1) inch equals five (5) feet vertically. No sheet size shall exceed thirty-six (36) inches. Floodplain limit studies required by this Zoning Code shall be shown on all profile sheets with reference to properties affected and center line of stream.
6. All horizontal distances shown on the site plan shall be in feet and decimals of a foot to the closest one-tenth (0.1) of a foot; and all bearings in degrees to the nearest ten (10) seconds.

C. **Approval Process:**

1. All site plans must be approved by the Planning and Zoning Commission. Site plans shall be submitted to the Zoning Inspector who shall review them for compliance with this chapter. Submittal shall be thirty (30) days prior to the meeting date at which the plans will be reviewed by the Planning and Zoning Commission accompanied by a fee of \$20.00 per \$10,000.00 of project cost.
2. Final site plans to be submitted to the Planning and Zoning Commission shall be based on a previously approved preliminary plan, except where such requirement is waived by the Planning and Zoning Commission for good cause.

3. The Planning and Zoning Commission shall act on site plans presented to it within thirty (30) days from the meeting where the site plan is reviewed, and the developer shall be advised as to the decision of the Planning and Zoning Commission by letter and/or legible markings and notes on the plan. Said decision shall be final. Final approval shall be shown by the signature of the Zoning Inspector on the final plans.
4. Prior to final approval of the site plan, the developer shall post any required bonds and shall present any dedication or easement plats for approval prior to recordation.
5. Approval of a final site plan by the Planning and Zoning Commission shall expire twelve (12) months from the date of such approval unless building permits have been obtained for construction in accordance therewith. A single extension, not to exceed six (6) months, may be given by the Planning and Zoning Commission upon written request by the applicant.
6. Approval of the site development plan constitutes authorization to proceed with site improvements within the area proposed under the site plan.
7. The Planning and Zoning Commission may attach conditions to the approval of the site development plan as may be reasonable required by the public health, safety and welfare.

D. **Preliminary Site Plans**: It is strongly recommended that, prior to submitting any plans, the applicant meet with Village officials regarding plan requirements. Every preliminary site plan submitted in accordance with this chapter shall contain the following information:

1. Location and acreage of various types of land use.
2. Location, names, and dimensions of proposed and existing streets, buildings, easements and drainageways.

3. Preliminary plans for the provision of utilities, including but not limited to, the methods for handling drainage, water supply, and sewage disposal.
4. Proposed parking layout including ingress and egress.

E. **Final Site Plans**: At the time of final site plan review, the following data shall be contained on the final site plan:

1. The owners, zoning, and present use of adjoining lands.
2. Location of all minimum building setback lines.
3. Location, type, and size of vehicular ingress and egress to the site.
4. A boundary survey.
5. Location, type, size and height of all fencing, screening, and buffering where required by this Zoning Code.
6. Existing topography with a maximum two (2) foot contour intervals and the proposed finished grading by contour.
7. Provisions for the adequate control of erosion and sedimentation indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading and construction.

8. All off-street parking and parking bays, loading spaces and walkways indicating type of surfacing and showing the number of parking spaces provided and the number required.
9. Number of floors, floor area, height and location of each building, and proposed general use for each building. In a multi-family residential building, the number, size, and type of dwelling units shall be shown.
10. Building elevations depicting actual composition and architectural style for all proposed structures.
11. Provisions for the adequate disposition of natural and storm water on and off-site, in accordance with current design criteria and construction standards of Bolivar including, but not limited to, the calculation of the contributing drainage area in acres and the location, size, type and grade of ditches, catch basins, inlets, pipes, and other drainage structures.
12. All existing and proposed sanitary sewer facilities indicating all pipe sizes, types, grades, invert elevations, and location of manholes.
13. All existing and proposed water facilities including all water mains, their sizes, valves and fire hydrant locations.
14. The location of any proposed refuse removal pads.
15. Location and size of all recreation and open space areas.

16. A landscaping and lighting plan.
17. Floodplain limits which shall be established by Flood Hazard Maps on file with the Zoning Inspector and/or engineering methods.
18. The location, width, size, and intended purpose of all easements and right-of-way and whether they are to be publicly or privately maintained. A plan copy, suitable for recording, shall be submitted showing any rights-of-way and/or easements for public dedication.
19. The following data relative to all existing and proposed streets: Location, Width, Names, Curve data, Grades, and Site distances. Typical sections shall be provided for all proposed streets or travel-ways.
20. Location and type of all signs.
21. Building materials and elevations.
22. Such other relevant data as the Planning and Zoning Commission may require.

F. **Required Improvements:**

1. All improvements required by this section shall be installed at the cost of the developer and in accordance with design and construction standards of Bolivar.
2. Prior to approval of any site plan, there shall be executed by the owner or developer and submitted with the site plan an agreement to construct such required physical

improvement as are located within public rights-of-way or easements or as are connected to any public facility in form and substance as approved by the Village, together with a bond with surety, cashier's check or escrow account in the amount of the estimated cost of the required improvements as submitted by the developer and approved by the Village. The aforesaid agreement and bond or condition shall be provided for completion of all work covered thereby within the time to be determined by the Village, which time may be extended upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement. The Village may also require a restoration bond. Said bond shall be to insure repair of any damage done to existing curb, gutter, sidewalk, street pavement, landscaping, or other items within the right-of-way adjacent to a project. The amount of said bond shall be as determined by the Village based on the estimate of potential damage.

3. All street construction standards and geometric design standards shall be in accord with those specified by the subdivision regulations of Bolivar except where specifically modified by the Village.
4. Private vehicular travel lanes or driveways designed to permit vehicular travel on the site and to and from adjacent property and parking areas shall be constructed not less than twenty (20) feet in width.
5. Adequate drainage for the disposition of storm and natural waters both on and off- site shall be provided.
6. In the preparation of site development plans, consideration will be given to provide suitable areas for parks, schools, open space, and other areas of public recreational use, especially when such facilities are proposed in the area under consideration of the Comprehensive Plan of the Village.
7. Fire hydrants shall be located within one hundred and fifty (150) feet of any proposed structure as approved by the appropriate Fire Department.

8. Provision shall be made for sidewalks and pedestrian walkways which will enable patrons, residents and/or tenants to walk safely and conveniently from one building to another within the site and to building and/or uses on adjacent sites as well. Sidewalks shall be constructed in accordance with Village standards. Landscape planting, screening, buffering, fences and other physical improvements shall be provided in accordance with the requirements of this Zoning Code.

9. All improvements that will ultimately be dedicated and become a part of the Village-owned infrastructure system shall be inspected full-time during construction by the Village or their authorized representative. The costs of such inspection shall be paid by the developer.

G. **Administration and Enforcement**: No permit shall be issued for the construction of any building or improvement requiring a permit in any area covered by a site development plan except in conformity with the provisions of this Section and duly approved site development plan. No construction or site improvements shall be initiated until the site plan has been approved. Any site development may be revised and such revisions shall be accomplished in the same manner as the original approval, provided, however, that minor technical changes which do not substantially alter the original site plan may be authorized by the Zoning Inspector. Upon satisfactory completion of the required improvements the Village shall release any remaining bonds.

SECTION V. AGRICULTURAL DISTRICT

A. **Agricultural Uses**: Land in any district may be used for limited agricultural purposes. A Building Permit shall be required for the construction of buildings incident to the agricultural use of the land on which such building shall be located, and residential buildings shall conform to the regulations contained in this Zoning Code. Any property used for limited agricultural purposes shall not maintain farm animals on the property.

B. **Property Zoned Agricultural**: Property which is zoned Agricultural shall only be used for agriculture and related activities; except that the owner of an Agricultural property shall be permitted to construct a dwelling house on the property for the purposes of residing on the agricultural property.

C. **Buildings in Agricultural District**: All buildings constructed in an Agricultural District shall be required to meet all setback and other requirements as provided in this Zoning Code.

SECTION VI. R-1 LOW DENSITY RESIDENTIAL

A. **Purpose:** The Low Density Residential District (R-1) is intended in areas of Bolivar which have low density residential development or are appropriate for low density residential use. The Low Density Residential District (R-1) attempts to establish and preserve quiet single-family neighborhoods, as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district. As the health, safety and welfare of residents in such neighborhoods is directly linked to the provision of essential services and facilities, connection to public sewer and water is required for each dwelling unit in the Low Density Residential District (R-1).

B. **Permitted Uses:** Land and buildings in Low Density Residential Districts (R-1) shall be used only for the following purposes:

1. Single Family Dwellings and Building Accessory thereto. A single family dwelling is defined as a separate building designed for and occupied exclusively as a residence for one (1) family. Trailers, Mobile Homes, and Manufactured Homes, regardless of the permanence with which they are attached to real estate, shall not be considered as one (1) family dwelling for the ordinance. Trailers, Mobile Homes, and Manufactured Homes are understood to be vehicles designed for being transported across the highways with axles affixed thereto, and removal of the wheels shall not permit the classification of such devices as one (1) family dwelling.
2. Churches
3. Schools, colleges, and universities
4. Public libraries and museums
5. Community centers
6. Fire stations

7. Township halls
8. Publicly owned parks and playgrounds
9. Golf courses
10. Home Occupations. Any person may maintain an office or may carry on his customary home occupation in the dwelling house used by him as his private residence provided--such uses does not create a public nuisance--or does not involve any extension or modification of said dwelling which will alter its outward appearance as a dwelling and provided such use does not involve any outward evidence of such use other than a sign as authorized in other Section hereof.
11. Hospital or rest home, provided that any such hospital or rest home shall have a lot area of not less than five (5) acres and a frontage on a public thoroughfare of not less than seven hundred (700) feet provided that any such hospital or rest home caring for contagious diseases also shall have a lot area of not less than one (1) acre per bed in addition to the other requirements set forth herein, and provided that said hospital or rest home shall have at least three hundred (300) feet clearance on each side and to the rear of said building.
12. Lodge halls, YMCA offices or buildings, or similar structures or buildings owned or operated by an established religious, fraternal, public service, or charitable organization.
13. Funeral homes and parlors.
14. All of the above-listed uses shall be permitted only if such use is not noxious, dangerous, or offensive by reason of odor, dust, smoke, gas noise, fumes, flames or vibration.

C. **Conditional Uses:** The following uses may be allowed in Low Density Residential Districts (R-1) subject to approval of a Conditional Use permit in accordance with Section XXV:

1. Bed and Breakfasts
2. Child Daycare Centers. A kindergarten or a child daycare facility as an Accessory Use of a dwelling or as a Principal Use of the lot, provided there shall be an outdoor play area of 200 square feet or more per child. Such play area shall be arranged in accordance with the provisions of this district for Accessory Uses, and shall be enclosed with a sturdy and protective fence with a height of four (4) feet, but not more than six (6) feet. The building occupied by the use must be compatible with neighborhood structures in dimension, size, and architecture. A drop off area must be provided so that children do not have to walk through the parking lot to enter the facility.
3. Condominiums. New-build condominiums may be allowed as a Conditional Use in an R-2 District. The Conditional Use permit must be issued before construction is begun on any proposed condo. Nothing contained in this Section shall be construed to permit the conversion of any existing dwelling or structure into condo units, which is prohibited in all residential districts.

D. **Specific Prohibitions in an R-1 District:**

1. Multiple dwellings on one (1) lot shall not be permitted in an R-1 District.
2. Multi-family dwellings shall not be permitted in an R-1 District, except new-build condominiums with a valid Conditional Use permit.

3. Trailers, Mobile Homes, and Manufactured Homes, regardless of the permanence with which they are attached to real estate, shall not be considered as a single-family dwelling for the Section, and shall not be permitted in an R-1 District.
4. Tourist Homes, Rooming Houses and Boarding Houses shall not be permitted in an R-1 District, except for a Bed and Breakfast operating under a validly issued Conditional Use permit.
5. No tent shall be used as a temporary or permanent residence in an R-1 District.
6. A trailer coach, mobile home, garage, basement, or temporary structure may be temporarily used as a residence on a lot while a dwelling is being constructed thereon but such use shall not be continued for more than nine months. A separate zoning certificate shall be required for the use of temporary dwelling quarters.

E. **Requirements for Dwellings within an R-1 District:**

1. The building must have a full basement.
2. The building must be a built on-site home.
3. The building must have an attached garage.
4. The building must have 1,600 square feet of living space, exclusive of breezeways, porches, terraces, garages, and basements.

5. Any outbuildings must have a permanent foundation.
6. Any new allotments shall be curbed and have sidewalks.

F. **R-1 Development Standards:** In addition to the provisions of Sections XIX and XX, the following standards for the arrangement and development of land and buildings are required in the Low Density Residential (R-1) District:

1. Minimum Lot Area. Ten thousand eight hundred ninety (10,890) square feet
2. Minimum Lot Width.
 - a. Seventy (70) feet of frontage on an improved public right-of-way.
 - b. On a curving street or cul-de-sac, thirty-five (35) feet of frontage on an improved public right-of-way is required and lot width shall be seventy (70) feet at the minimum building line.
3. Minimum Front Yard. Thirty (30) feet as measured between the street right-of way line and the building setback line.
4. Minimum Side Yard. Ten (10') feet from property line to edge of roof line.
5. Minimum Rear Yard. Fifteen (15) feet as measured from the rear property line.

6. Maximum Lot Coverage. No lot shall be covered more than thirty-five percent (35%) by the structure.

7. Maximum Height of Principal Structure is Thirty-five (35) feet.

8. Corner Lots. On a corner lot the principal building and its accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yard in the district in which such structures are located, but in no event shall be less than twenty (20) feet.

SECTION VII. R-2 MEDIUM DENSITY RESIDENTIAL

A. **Purpose:** The Medium Density Residential District (R-2) is provided for areas of Bolivar that have a moderate residential density and land which appears appropriate for such development. The Medium Density Residential District (R-2) is intended to establish and preserve quiet and safe residential areas which are free from other uses. As the health, safety and welfare of residents in such neighborhoods is directly linked to the provision of essential services and facilities, connection to public sewer and water is required for each dwelling unit in the Medium Density Residential District (R-2).

B. **Permitted Uses:** Land and buildings in Medium Density Residential Districts (R-2) shall be used only for the following purposes:

1. Single Family Dwellings and Building Accessory thereto. A single family dwelling is defined as a separate building designed for and occupied exclusively as a residence for one (1) family. Trailers, Mobile Homes, and Manufactured Homes, regardless of the permanence with which they are attached to real estate, shall not be considered as one (1) family dwelling for the ordinance. Trailers, Mobile Homes, and Manufactured Homes are understood to be vehicles designed for being transported across the highways with axles affixed thereto, and removal of the wheels shall not permit the classification of such devices as one (1) family dwelling.
2. Churches
3. Schools, colleges, and universities
4. Public libraries and museums
5. Community centers

6. Fire stations

7. Township halls

8. Publicly owned parks and playgrounds

9. Golf courses

10. Home Occupations. Any person may maintain an office or may carry on his customary home occupation in the dwelling house used by him as his private residence provided--such uses does not create a public nuisance--or does not involve any extension or modification of said dwelling which will alter its outward appearance as a dwelling and provided such use does not involve any outward evidence of such use other than a sign as authorized in other Section hereof.

11. Hospital or rest home, provided that any such hospital or rest home shall have a lot area of not less than five (5) acres and a frontage on a public thoroughfare of not less than seven hundred (700) feet provided that any such hospital or rest home caring for contagious diseases also shall have a lot area of not less than one (1) acre per bed in addition to the other requirements set forth herein, and provided that said hospital or rest home shall have at least three hundred (300) feet clearance on each side and to the rear of said building.

12. Lodge halls, YMCA offices or buildings, or similar structures or buildings owned or operated by an established religious, fraternal, public service, or charitable organization.

13. Funeral homes and parlors.

14. All of the above-listed uses shall be permitted only if such use is not noxious, dangerous, or offensive by reason of odor, dust, smoke, gas noise, fumes, flames or vibration.

C. **Conditional Uses:** The following uses may be allowed in Medium Density Residential Districts (R-2) subject to approval of a Conditional Use permit in accordance with Section XXV:

1. Bed and Breakfasts
2. Child Daycare Centers. A kindergarten or a child daycare facility as an Accessory Use of a dwelling or as a Principal Use of the lot, provided there shall be an outdoor play area of 200 square feet or more per child. Such play area shall be arranged in accordance with the provisions of this district for Accessory Uses, and shall be enclosed with a sturdy and protective fence with a height of four (4) feet, but not more than six (6) feet. The building occupied by the use must be compatible with neighborhood structures in dimension, size, and architecture. A drop off area must be provided so that children do not have to walk through the parking lot to enter the facility.
3. Duplexes and Condominiums. New-build duplexes and condominiums may be allowed as a Conditional Use in an R-2 District. The Conditional Use permit must be issued before construction is begun on any proposed duplex or condo. Nothing contained in this Section shall be construed to permit the conversion of any existing dwelling or structure into a duplex or condo units, which is prohibited in all residential districts.

D. **Specific Prohibitions in an R-2 District:**

1. Multiple dwellings on one (1) lot shall not be permitted in an R-2 District.

2. Multi-family dwellings shall not be permitted in an R-2 District, except new-build duplexes and condominiums with a valid Conditional Use permit.
3. Trailers, Mobile Homes, and Manufactured Homes, regardless of the permanence with which they are attached to real estate, shall not be considered as a single-family dwelling for the Section, and shall not be permitted in an R-2 District.
4. Tourist Homes, Rooming Houses and Boarding Houses shall not be permitted in an R-2 District, except for a Bed and Breakfast operating under a validly issued Conditional Use permit.
5. No tent shall be used as a temporary or permanent residence in an R-2 District.
6. A trailer coach, mobile home, garage, basement, or temporary structure may be temporarily used as a residence on a lot while a dwelling is being constructed thereon but such use shall not be continued for more than nine months. A separate zoning certificate shall be required for the use of temporary dwelling quarters.

E. **Requirements for Dwellings within an R-2 District:**

1. The building must be a built on-sight home.
2. The building must have 1,200 square feet of living space, exclusive of breezeways, porches, terraces, garages, and basements, if the building contains a basement. If the building is without basement, the building must contain no less than 1,400 square feet, exclusive of breezeways, porches, terraces, and garages; Regardless of whether the building has a basement, the building shall not be less than 20 feet in width or depth, whichever is the smaller dimension.
3. Any out-buildings must have a permanent foundation.

4. Any new allotments shall be curbed and have sidewalks.

F. **R-2 Development Standards**: In addition to the provisions of Sections XIX and XX, the following standards for the arrangement and development of land and buildings are required in the Medium Density Residential (R-2) District:

1. Minimum Lot Area. Seven thousand two hundred 7,200 square feet. Special requirements exist for a duplex or multi-family dwelling. See Section XX for more details.
2. Minimum Lot Width.
 - a. Sixty (60) feet for a single-family residence.
 - b. Each lot shall front and abut an improved public street for a distance of fifty (50) feet or more. On a curving street or cul-de-sac, thirty-five (35) feet of frontage on an improved public right-of-way is required and lot width shall be sixty (60) feet at the minimum building line.
3. Minimum Front Yard. Thirty (30) feet as measured between the street right-of way line and the building setback line.
4. Minimum Side Yard. Ten (10') feet from property line to edge of roof line.
5. Minimum Rear Yard. Fifteen (15) feet as measured from the rear property line.

6. Maximum Lot Coverage. No lot shall be covered more than thirty-five percent (35%) by the structure.

7. Maximum Height of Principal Structure is Thirty-Five (35) feet.

8. Corner Lots. On a corner lot the principal building and its accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yard in the district in which such structures are located, but in no event shall be less than twenty (20) feet.

SECTION VIII. T/MH DISTRICT (TRAILER PARK, MOBILE HOME AND MANUFACTURED HOME)

A. **Purpose:** The Trailer Park, Mobile Home, and Manufactured Home District (T/MH) is the only district in Bolivar where Trailer Parks, Mobile Homes, and Manufactured Homes are permitted.

B. **Permitted Uses:** The following uses shall be the only uses permitted in a T/MH District:

1. Any use permitted in an R-1 or R-2 District.
2. The placement of Trailers, Mobile Homes, and Manufactured Homes on lots within this district. Trailers, Mobile Homes, and Manufactured Homes are defined as vehicles designed for being transported across the highways with axles affixed thereto, and removal of these shall not permit the classification of such devices as a single-family dwelling. Trailers, Mobile Homes, and Manufactured Homes, regardless of the permanence with which they are attached to the real estate, shall not be considered as single- family dwellings for the purpose of this Ordinance, but shall be considered as Trailers, Mobile Homes, and Manufactured Homes.
3. The above uses shall be permitted only provided such use is not noxious, dangerous, or offensive by reason of odor, dust, smoke, gas, noise, fumes, flames, or vibration.

C. **Special Requirements in a T/MH District:**

1. No trailer park shall be established on a lot having an area of less than two thousand (2,000) square feet per trailer.
2. There shall be a separate water tap for each trailer. Sanitary provisions for trailers and trailer parks shall be in accordance with the requirements set down by the Tuscarawas County Board of Health.

SECTION IX. B/C BUSINESS/COMMERCIAL DISTRICTS

A. **Purpose:** The Business/Commercial (B/C) District is intended to provide areas for a broad range of retail and commercial service facilities. Because of the wide range and intensity of commercial uses allowed, areas zoned Business/Commercial have the potential to become activity centers and community focal points. As a result, these areas should be carefully located to insure that proper traffic access, adequate utilities, and desirable land-use relationships exist or can be provided.

B. **Permitted Uses:** The following uses are permitted in a B/C District:

1. Any use permitted in an R-1 or R-2 District.
2. Retail Stores. Retail stores primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods (including the buying or processing of goods for resale) including:
 - a. General Merchandise: Hardware stores, department stores, mail order houses, limited price variety stores, appliance sales, and miscellaneous general merchandise stores.
 - b. Food: Supermarkets, grocery stores, meat and fish (seafood) markets, fruit stores and vegetable markets, candy, nut and confectionery stores, dairy products stores, retail bakeries, supermarkets, and miscellaneous food stores.
 - c. Building Materials, Retail: Lumber and other building materials, heating and plumbing equipment, electrical supply equipment, and hardware and farm equipment.
 - d. Apparel: Clothing, accessories and personal furnishing stores, shoe stores, custom tailors, furriers and fur shops, and miscellaneous apparel and accessory stores.

- e. Home Furnishings: Furniture, home furnishings, and equipment stores, household appliance stores, and radio, television and music stores.
 - f. Restaurants and other eating and drinking places.
 - g. Electronic products.
 - h. Video rental store.
 - i. Miscellaneous Retail: Drug stores and proprietary stores, liquor stores, antique stores and secondhand stores, stationery stores, sporting goods stores and bicycle shops, jewelry stores, florists, cigar stores, news dealers, camera and photographic supply stores, gift, novelty and souvenir shops, optical goods stores, and miscellaneous retail stores not elsewhere classified.
 - j. Business Services: Advertising, duplicating, addressing, blueprinting, photocopying, mailing, stenography, and business services not elsewhere classified.
3. Business and Professional Offices. Business offices engaged in providing tangible and intangible services to the public, involving both persons and their possessions, including:
- a. Administrative, Business and Professional Offices: Administrative offices primarily engaged in general administration, supervision, purchasing, accounting and other management functions, and professional offices engaged in providing tangible and intangible services to the general public, involving both persons and possessions, including financial services, real estate and insurance.

- b. Professional: Offices of physicians and surgeons, dentists and dental surgeons, chiropractors, medical and dental laboratories, health and allied sciences not elsewhere classified, legal services, design services including engineering, architecture, landscape architecture, urban planning, graphic arts and interior design, and accounting, auditing and bookkeeping services.
 - c. Health care maintenance and emergency services.
- 4. Personal and Consumer Services. Personal services generally involve the care of the person or his/her personal effects and consumer services generally involve the care and maintenance of tangible property or the provision of intangible services for personal consumption. Some examples include:
 - a. Personal: Photographic studios, including commercial photography, beauty shops, barber shops, laundromats, funeral services, shoe repair shops, pressing, alteration and garment repair, and miscellaneous personal service.
 - b. Repair Services: Electrical repair shops, watch, clock and jewelry repair, reupholsters and furniture repair, and similar household item repair shops and related services.
- 5. Hospital or rest homes, other than for contagious diseases, insane, mental cases, drug or liquor addicts.
- 6. Gasoline filling and servicing stations, provided storage tanks are underground.
- 7. Drive-up window or outdoor service facilities.

8. Automobile service stations, automobile convenience markets, repair, services and garages, gasoline service stations, provided no portion of a structure or its appurtenances, including ancillary, associated or auxiliary equipment, shall be located in front of the established building line. All repair work must be performed indoors.
9. Commercial recreation businesses, such as theaters, dance halls, dance studios, dance schools, bowling alleys, swimming pools, golf courses, driving ranges, and skating rinks.
10. Hotels and Motels.
11. Offices of Veterinarians and Animal Hospitals.
12. Automobile parking. An automobile parking lot as a principal use.
13. Automobile Car Wash.
14. Job printing or newspaper printing plant.
15. Apartment complex, duplex, or other multi-family dwelling, rooming house, or living quarters over business establishment, restaurant, lunchroom, or garage.
16. Antique dealers.
17. Wineries and Microbreweries.

18. The above uses shall be permitted only provided such use is not noxious, dangerous, or offensive by reason of odor, dust, smoke, gas, noise, fumes, flames, or vibration.

C. **Development Standards within a B/C District:** the following standards for the arrangement and development of land and buildings are required in the Business/Commercial (B/C) District:

1. **Minimum Lot Area.** No minimum lot area is required, however, all lots shall abut an improved public right-of-way and lot area shall be adequate to provide the required yard space.
2. **Minimum Lot Width.** No minimum lot width is required, however, all lots shall abut an improved public right-of-way and have adequate width to provide the required yard space and meet minimum access requirements.
3. **Minimum Front Yard.** The minimum front yard setback shall be no less than thirty (30) feet measured from the street right-of-way.
4. **Minimum Side Yard.** For main and accessory structures, including open service and loading areas, the required side yard shall be not less than fifteen (15) feet.
5. **Minimum Rear Yard.** For main and accessory structures, the required rear yard shall be not less than twenty (20) feet.
6. **Maximum Lot Coverage and Intensity of Use.** No maximum lot coverage is required, however, the lot coverage shall be adequate to provide the yard space required.
7. **Maximum Height of Structures.** No structure shall exceed thirty-five (35) feet unless prior approval is received from the Fire Chief and Village Administrator.

D. **Outdoor Displays and Sales**: The following items may be displayed and sold outdoors in a B/C District:

1. Vehicles, trailers, boats, and RV sales and rentals
2. Equipment rental
3. Landscaping, lawn, and garden supplies
4. Storage buildings, sheds, cabins, or other portable buildings
5. Playground equipment or other lawn and patio structures, equipment, or other items.
6. Storage and paid storage in existing buildings

SECTION X. I/M INDUSTRIAL/MANUFACTURING DISTRICTS

A. **Purpose:** The I/M district is established to provide for and accommodate industrial uses in the fields of repair, storage, manufacturing, processing, wholesaling, and distribution.

B. **Permitted Uses:** The following uses are permitted in an I/M District:

19. Any use permitted in an R-1, R-2, or B/C District.

20. Off-street public parking lot and garage.

21. Plant greenhouse.

22. Warehousing establishments.

23. Wholesale establishments.

24. Any type of manufacturing, processing, cleaning, servicing, testing, or repair activities which will not be materially injurious or offensive to the occupants of adjacent premises or the community at large by reason of emission or creation of noise, vibration, smoke, dust, or other particulate matter toxic and noxious, materials, odors, fire or explosive hazards, glare or heat, or electromagnetic disturbances, including the following:

a. Bakery goods, candy, cosmetics, pharmaceuticals, toiletries, and food products, except fish or meat products, sauerkraut, yeast, and the rendering of fats or oils.

b. Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, metal (except where presses over

twenty (20) tons rated capacity are employed) shell, textiles, tobacco, wax, wood (where saw and planing mills are employed within a completely enclosed building) and yarns.

c. Pottery and figurines using previously pulverized clay and kilns fired only with gas or electricity.

d. Musical instruments, toys, novelties, rubber or metal stamps, and other small rubber products.

e. Electrical and electric appliances, instruments and devices, television sets, radios, phonographs, and household appliances.

f. Electric and neon signs, billboards, and other commercial advertising structures

g. Laboratories and processing facilities for experiments, film, or testing provided no operation shall be conducted or equipment used which would create hazards, noxious, or offensive conditions.

25. Public Service and Utilities Facilities: This category refers to publicly or privately owned facilities provided or relating to the furnishing to the public of essential services including: water; sanitary sewer service; storm sewer service; parking facilities; maintenance of parks and other recreational areas and facilities; maintenance of streets; garbage and rubbish removal; electrical, gas and other fuel service; telephone service; radio and television stations and transmittal towers.

26. Research and Development Facilities: This category refers to facilities for research, design, experimental production, and testing operations.

27. Any other normal industrial or manufacturing use, provided such use is not noxious, dangerous, or offensive by reason of emission of odor, dust, smoke, gas, noise, fumes, flames, or vibration, except specifically prohibited herein. When there is a question as to whether the use shall violate this provision, the use should be brought before the Planning Commission for discussion prior to being implemented.

C. **Conditional Uses:**

1. Sand and gravel mining operations, in conformance with all applicable state and federal requirements and standards, shall be a conditional use of I/M District property.

D. **Development Standards within an I/M District:** the following standards for the arrangement and development of land and buildings are required in the Industrial/Manufacturing (I/M) District:

8. Minimum Lot Area. One-half (1/2) acre
9. Minimum Lot Width. One hundred (100) feet
10. Minimum Lot Frontage. One hundred (100) feet
11. Minimum Front Yard Depth. Fifty (50) feet
12. Minimum Rear Yard Depth. Twenty-five (25) feet

13. Minimum Side Yard Width. Twenty-five (25) feet

14. Maximum Building Height. Fifty (50) feet

15. Exceptions: Yards Adjoining Any Residential District. Where the boundary of an I/M District adjoins the boundary line of a residential district, the minimum front, rear, or side yard, as the case may be, shall be one hundred (100) feet. The area abutting the residential boundary, to a depth of fifty (50) feet, shall be landscaped and maintained as to minimize any undesirable visual effects of the industry on adjacent residential uses; the balance of the yard area shall be used for open space or vehicular parking.

SECTION XI. STORAGE BUILDINGS

A. **Definition:** A Storage Building is defined as a structure used for storage of belongings, not accessory to a single-family or duplex residence located on the same building site, not designed for human habitation, and not used for remunerative purposes. This term shall not include agricultural buildings

B. **Requirements for a Storage Building:**

1. No person, firm, corporation, or other entity shall place a storage building on property located within the Village without first obtaining a permit from the Zoning Inspector. The applicant must make application with the Zoning Inspector for a Building Permit in accordance with Zoning Code Section XXII.
2. The applicant must provide to the Zoning Inspector a mortgage location survey or other survey prepared by a certified surveyor in the State of Ohio that reflects the location of all property pins, the proposed location for the storage building, and the distance of the storage building in relation to the boundary lines of the property.
3. The Village shall charge a non-refundable application fee in the amount of Twenty Dollars (\$20.00).
4. There shall be no storage buildings permitted in either the side yard or front yard of any property located within the Village.
5. The Zoning Inspector shall have the right to reject any application if the Zoning Inspector determines that the storage building diminishes the aesthetic value of the neighborhood or otherwise constitutes a nuisance.
6. All storage buildings shall be a minimum of five (5) feet from all property boundary lines.

C. **Non-Conforming Uses**: To the extent there are currently pre-existing storage buildings that are non-conforming with this Section, the requirements regarding non-conforming uses as set forth in Section XXI of the Zoning Code shall apply.

D. **Penalty and Violations**: Any person, firm, corporation, or other entity violating this order shall be deemed guilty of a minor misdemeanor. Each day that the violation exists shall constitute a separate offense.

SECTION XII. PAPER RECEPTACLES OR OTHER STRUCTURES WITHIN THE
VILLAGE ROAD RIGHT OF WAY OR ON VILLAGE PROPERTY

A. **Regulations:** The regulations shall prevent the erection, placement, construction, or maintenance of temporary and/or permanent receptacles for purposes of newspaper delivery or other structures within any road right of way within the Village or on any Village-owned property.

1. PROHIBITIONS. Except as provided in subsection 2, no person, firm, corporation, or other entity shall erect, place, construct, or maintain a newspaper receptacle or other temporary or permanent structure on real estate located within the Village road right of way or on any Village property, without prior written approval of the Zoning Inspector.

2. EXCEPTIONS: A mailbox posted for U.S. mail delivery and any newspaper receptacle which is attached to a U.S. mailbox is excluded from the prohibitions listed above. Additionally, with regard to any other temporary or permanent structures, the person, firm, corporation, or other entity erecting, placing, constructing, or maintaining said temporary or permanent structure shall be in violation of this Section, unless they have filed a written request with Council for permission to maintain said temporary or permanent structure and Council, by majority vote, has granted permission for the erection, placement, construction, or maintenance of said structure.

3. PENALTY: Any person, firm, corporation or other entity violating this Ordinance, shall be deemed guilty of a minor misdemeanor. Each day that the newspaper receptacle or other temporary or permanent structure remains on the real estate located within the Bolivar road right-of-way or on other Village property shall constitute a separate offense.

SECTION XIII. FENCES

A. **Purpose and Scope:** The purpose of this section is to establish regulations controlling the location, installation and standards for fences in order that a property owner may construct a fence which retains the privilege of privacy, allows attractive landscape design, or offers reasonable security while assuring that such fences are located and constructed to respect the rights and enjoyment of neighboring property owner, the appearance of the community, and the overall health, safety, and public welfare of its residents.

This section sets forth regulations pertaining to the location, installation and standards for new fences in all zoning districts in the Village. Any fence erected prior to the date of this section, which does not comply with these regulations, shall be nonconforming. However, the Zoning Inspector may order appropriate remedial measures to alleviate any hazardous conditions related to any fence, whether newly constructed following adoption of this section, or constructed prior to the adoption of this section, whether conforming or nonconforming, when the Zoning Inspector determines that such condition, without immediate remedial measures jeopardizes the health and safety of nearby residents or occupants.

B. **Requirements for Fence Permit:**

1. No person, firm, corporation, or other entity shall erect, place, or maintain a fence, wall, or hedge on real estate located within the Village without first applying for and obtaining a permit from the Zoning Inspector. The non-refundable fee for said permit is Twenty Dollars (\$20.00).
2. A building permit shall be obtained from the Zoning Inspector pursuant to the provisions of Section XXII of the Zoning Code. In addition, the application must provide the Zoning Inspector a plat of the real estate illustrating the location of the property pins, indicating where the fence, wall, or hedges are to be placed and the distance of the fence, wall, or hedges to the boundary lines of the property. Said plan shall be made available to the Zoning Inspector at the time of application for a building permit.
3. The Zoning Inspector shall have the right to reject any application if the Zoning Inspector determines that the fence, wall, or hedges diminish the aesthetic value of the neighborhood or otherwise constitute a nuisance.

4. Inspections. It shall be the duty of each property owner to determine property lines and to ascertain that the fence thus constructed does not deviate from the plans approved by the Village, and such fence does not encroach upon another lot or parcel of land nor is it in violation of any deed restrictions. The Village shall furnish such inspection as is deemed necessary to determine that the fence is constructed in accordance with plans submitted for permit, provided, however, that the issuance of the permit by the Village shall not be construed to mean that the Village has determined that the fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed upon him therein.

C. **General Fence Requirements (Applicable to All Districts):**

1. No barbed wire fence or similar sharp point fence shall be constructed, erected or maintained in any district except for agricultural uses.
2. Electrically charged fences shall be forbidden in all districts except on sites of more than ten (10) acres used to confined livestock.
3. All fences shall be maintained in good condition, be structurally sound and attractively finished at all times. Any ground between the fence and property line shall be well maintained.
4. Board on board or stockade fences are prohibited on parcels that abut on an improved right-of-way.
5. All fences and walls must present the finished non-structural face outward.
6. No fence or wall shall be permitted to encroach upon public rights-of-way or easements.

7. No mesh wire fence shall be construed in any district.
8. No fence shall be construed on any property line; nor shall any fence be constructed on or within any easement.
9. All fences on a parcel shall have a unified style.
10. Guardrails shall not be used as fencing.

D. **Design Standards:**

1. Front Yard Fences. A fence, wall, or hedge may be located in the front yard of any property of the Village, provided:
 - a. The fence, wall, or hedges shall not be electrified or barb wired.
 - b. The fence, wall, or hedges shall be ornamental in nature, meaning it does not enclose the yard, and is clearly intended to decorate the yard rather than contain it. This excludes privacy type fences.
 - c. The fence, wall, or hedges shall reach a maximum of height of no more than three (3) feet above the ground.
 - d. Any gate attached to the fence, wall, or hedge shall be the same height as the fence, wall, or hedge. Further, said gate shall open from the inside and open inward toward the property.

- e. The fence, wall, or hedge shall be located no less than five (5) feet within the property line.
2. Side Yard Fences (From Front Property Pin to Point Parallel to Front of Home or Structure). A fence, wall, or hedge may be located in the side yard as described above on any property in the Village, provided:
- a. The fence, wall, or hedge shall not be electrified or barb wired.
 - b. The fence, wall, or hedges shall be ornamental in nature, meaning it does not enclose the yard, and is clearly intended to decorate the yard rather than contain it. This excludes privacy type fences.
 - c. The fence, wall, or hedges shall reach a maximum of height of no more than three (3) feet above the ground.
 - d. Any gate attached to the fence, wall, or hedge shall be the same height as the fence, wall, or hedge. Further, said gate shall open from the inside and open inward toward the property.
 - e. The fence, wall, or hedge shall be located no less than one (1) foot within the property line.
3. Side Yard (From Point Parallel to Front of Home or Structure to Rear Property Pin). A fence, wall, or hedge may be located in the side yard as more fully described above on any property located within the Village, provided:

- a. The fence, wall, or hedge shall not be electrified or barbed wired.
- b. The fence, wall, or hedge may be ornamental in nature, open style, or privacy type fence.
- c. The fence, wall, or hedge shall reach a maximum height of no more than seven (7) feet above the ground.
- d. Any gate attached to the fence, wall, or hedge shall be the same height as the fence, wall, or hedge. Further, said gate shall open from the inside and open inward toward the property.
- e. The fence, wall, or hedge shall be located no less than one (1) foot within the property line.

4. Rear Yard. A fence, wall, or hedge may be located in the rear yard of any property of the Village, provided:

- a. The fence, wall, or hedge shall not be electrified or barbed wired.
- b. The fence, wall, or hedge may be ornamental in nature, open style, or privacy type fence.
- c. The fence, wall, or hedge shall reach a maximum height of no more than seven (7) feet above the ground.

d. Any gate attached to the fence, wall, or hedge shall be the same height as the fence, wall, or hedge. Further, said gate shall open from the inside and open inward toward the property.

e. The fence, wall, or hedge shall be located no less than one (1) foot within the property line.

E. **Special Requirements:**

1. Corner Lots. A fence, wall, or hedge may be located on a corner lot of any property located within the Village, provided:

a. The fence, wall, or hedge shall not be electrified or barb wired.

b. The fence, wall, or hedge shall be ornamental in nature, meaning it does not enclose the yard, and is clearly intended to decorate the yard rather than contain it. This excludes privacy type fences, but includes decorative and open style fencing.

c. The fence, wall, or hedge shall reach a maximum height of no more than three (3) feet above the ground.

d. Any gate attached to the fence, wall, or hedge shall be the same height as the fence, wall, or hedge. Further, said gate shall open from the inside and open inward toward the property.

e. The fence, wall, or hedge shall be located no less than five (5) feet within the property line.

f. To the extent that this provision regarding corner lots conflicts with any other provisions of this Ordinance, this section governs the requirements of corner lots.

2. **Swimming Pool Safety Fences:** Any resident of the Village wishing to place a fence around a swimming pool, whether above ground or below ground, shall meet the following requirements:

a. The fence, wall, or hedge shall not be electrified or barb wired.

b. The fence shall be a minimum height of three (3) feet and a maximum height of seven (7) feet. If the pool is a below ground pool, the measurements set forth herein commence at ground level. In the event that the pool is an above ground pool, the measurements begin at the pool deck level.

c. The fence surrounding the pool may be decorative in nature, open style in nature, and a privacy type fence is permitted as long as it meets the herein referenced requirements.

d. The fence shall completely surround the swimming pool itself.

F. **Maintenance:** All maintenance and upkeep of all sides of fence shall be the responsibility of the Property owner.

G. **Non-Conforming Uses:** To the extent that there are currently pre-existing fences, walls, or hedges that are non-conforming with this Section, the provisions regarding Non-Conforming Uses as set forth in Section XXV shall govern.

H. **Violations and Penalty**: Any person, firm, corporation, or oilier entity violating this order shall be deemed guilty of a minor misdemeanor. Each day that the violation exists shall constitute a separate offense.

SECTION XIV. SIGNS

A. **Purpose:** The purpose of this Section is to provide standards for signs to safeguard life, health, property, safety, and public welfare, while encouraging creativity, variety and compatibility, and enhancement of the Village's image. Signs shall be regulated relative to time, place, and manner. The individual user's right to convey a message must be balanced with the public's right to be free of signs which unreasonably distract drivers and pedestrians. This Section is based on the premise that signs are subject to control as much as noise, odor, debris, and other similar characteristics of land use, and that if not regulated, can become a nuisance to adjacent properties or the community in general, or depreciate the value of other properties within the community. The provisions of this Section are intended to:

1. Encourage creative and well-designed signs that contribute in a positive way to the Village's visual environment, express local character, and help develop a distinctive image for the Village;
2. Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses, and the surrounding neighborhood. Signs should be compatible and integrated with the building's architectural design and with other signs on the property;
3. Prevent or limit traffic or pedestrian accidents, injuries, deaths, and property damages resulting from obstructed vision, distraction, or confusion to the public due to the undue proliferation of signs;
4. Encourage a healthful economic and business environment in the community;
5. Limit the height and size of signs to those that are appropriate in scale to the community;
6. Provide adequate way finding signage for motorists and pedestrians;

7. Reduce visual clutter;
8. Minimize the risk of damage and injuries from signs that are structurally unsafe;
9. Prevent blight characterized by oversized, overcrowded, abandoned, obsolete, and/or dilapidated signs; and
10. Protect the public's right to receive information protected by the First Amendment of the United States Constitution.

B. **Applicability**: Except as otherwise provided in this Section, all signs placed, erected, installed, painted, modified or altered in Bolivar shall conform to the standards set forth in this Section. Erection, modification, alteration, placement, replacement or other action involving a sign that is in any way inconsistent with this Section shall be a violation of the Zoning Code and subject to penalties and remedies as set forth in the Code. The sign standards provided in this Section are intended to apply to signs in each zoning district in the Village. Only signs authorized by this Section shall be allowed.

1. Existing Signs; Continuance. Except as otherwise specifically provided, nothing in this Section shall require removal or discontinuance of an existing on-premises or existing off-premises sign. No existing signs shall be enlarged or extended except in conformation with this Zoning Code. Any nonconforming signs so enlarged or extended shall be deemed a nonconforming sign under the terms of the Zoning Code.
2. Nonconforming Signs.
 - a. Any pre-existing nonconforming sign may be continued in use if maintained in accordance with this Section. Short Term Advertising signs shall not be considered legal, non-conforming signs, as defined under this Section.
 - b. Any nonconforming sign displayed on the premises shall be removed or brought into conformance with the provision of this Section before a permit for a new sign may be issued.

c. A legal nonconforming sign shall immediately lose its legal nonconforming designation and shall be immediately brought into compliance with this Section and a new permit is required, or shall be removed upon any of the following occurrences:

i. The nonconforming sign is structurally altered, enlarged, relocated, or replaced.

ii. The nonconforming sign is determined by the Zoning Inspector to be in a dangerous or defective condition; to fail to conform to health and fire codes; a public nuisance; or abandoned, deteriorated; or in need of repair or replacement.

iii. The nonconforming sign face and/or supportive structure is destroyed or damaged in excess of fifty percent (50%) of the combined replacement value of the sign and supportive structure, by any cause.

iv. Upon the discontinuance of the present use of property for which the sign was intended for a period of more than six (6) months.

v. A nonconforming sign shall not be moved in whole or in part to any other location unless such sign is made to conform to this Section. If an owner is forced to move a nonconforming sign by Village, state, or federal officials for any reason other than enforcement, such sign shall maintain its nonconforming status, but must still adhere to the setback requirements.

3. Nothing in this section shall prevent the ordinary repair, maintenance, and non-structural alteration of nonconforming signs. Maintaining the nonconforming sign to the exact legal

nonconforming design shall be allowed; however, any proposed changes to a nonconforming sign, except for re-facing an existing sign, shall require that the sign be made to conform to the requirements of this Section. Re-facing an existing nonconforming sign shall not be considered an alteration as long as the re-facing constitutes an exact replica of the existing sign face. The design, color scheme, translucency, graphics and text must exactly match those existing. No structural alterations shall be made in, to, or upon such nonconforming sign, except those required by law to make the sign conform to the requirements of this Section.

C. **General Requirements for all Signs in All Districts:**

1. Signs in Public Rights-of-Way. Except as provided, no sign shall be placed or deposited within any public right-of-way or on any tree, pole, post, meter, or similar object located within the public right-of-way. Under no circumstance may any signs that are permitted in the right-of-way interfere with vehicular or pedestrian visibility. Signs interfering with visibility will be removed. The following signs may be installed in the public rights-of-way:
 - a. Signs conforming to the Manual of Uniform Traffic Control Devices;
 - b. Signs required by a state or federal statute;
 - c. Signs required by an order of a court of competent jurisdiction;
 - d. Public directional and safety signs.
2. Blade signs attached to a building may project a maximum of forty (40) inches over a public right-of-way provided the lowest part of the sign is at least eight (8) feet but no more than fifteen feet above the pedestrian thoroughfare and provided said sign has received a Sign Permit from the Zoning Inspector.

3. Colors. Not more than three (3) colors may be used per sign. For purposes of this Section, white shall not be considered a color. Neon and fluorescent colors are prohibited.

4. Lettering Styles and Sign Coverage. No more than two letter styles or more than three (3) sizes of letters are permitted per sign. Letters may not occupy more than seventy-five percent (75%) of any sign panel.

5. Measurement of Sign Area.
 - a. The surface area of a sign shall be calculated by enclosing the extreme limits of all lettering, background, emblem, logo, representation, or other display within a single continuous perimeter composed of squares or rectangles with no more than eight lines drawn at right angles.

 - b. Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.

 - c. Double-faced (back-to-back) signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two (2) feet at any point. Only one face of an identical double-faced sign shall be measured when determining maximum allowable area.

 - d. Where a sign consists of one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), the sign area shall be measured as their maximum projection upon a vertical plane.

 - e. Regardless of their spacing, the letters forming a word or name shall be considered a single sign. The area of such a sign shall be measured as provided in this Section.

6. **Measurement of Sign Height.** The height of a sign shall be computed as the distance from the base of the sign at a computed grade to the top of the highest attached component of the sign (including the sign face, sign structure, or any other appurtenance). The computed grade shall be the elevation of the nearest point to the proposed sign location of the crown of the nearest public street providing access; or the grade of the land at the principal entrance to the principal structure on the lot, whichever is higher.
7. **Alterations.** No sign shall hereafter be altered, rebuilt, enlarged, extended or relocated except in conformity with the provisions of this Section. The repainting of signs shall not be deemed to be an alteration within the meaning of this Section.
8. **Sign Maintenance.** Signs and supporting hardware shall be structurally safe, clean, free of visible defects, and functioning properly at all times. Visible rot or rust, exposed lighting sources or wires, falling parts, or broken and missing parts are prima facie evidence that a sign is in a state of disrepair. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.
9. **Notice to Repair.** When the Zoning Inspector determines that such a sign exists in a state of disrepair, the Zoning Inspector or the Village shall issue to the owner of the sign and the owner of the real estate a notice of such disrepair and the need for corrective action. Any party receiving such notice may appeal the notice to the Planning Commission. If such an appeal is not filed within fifteen (15) days of the date on which the notice is sent, persons receiving the notice shall be responsible for repairing the sign or otherwise bringing it into conformance with this Section. The repair work shall be accomplished within thirty (30) days of the date of the notice, unless the person undertaking the work files a request with the Zoning Inspector for an extension. If such request shows diligence and good faith such as ordering materials or signing a contract with a licensed contractor, the Zoning Inspector shall grant an extension of thirty (30) days for completion of the work. If an appeal is filed, the time for performance shall be delayed until resolution of the appeal. If the Zoning Inspector finds that the lack of repair constitutes a danger to persons or to property other than that of those persons receiving the notice, the Zoning Inspector shall so state in the notice and the Village may seek immediate relief under the Building Code or under the laws of public nuisance.

10. Sign Removal or Replacement. When a sign is removed or replaced, all brackets, poles, and other structural elements that supported the sign shall also be removed. Affected building surfaces shall be restored to match the adjacent portion of the structure.
11. Sign Attachment and Support. No sign shall be attached to or supported by a tree, utility pole, light pole, trash receptacle, bench, vending machine, gasoline pump or hose, or public shelter, nor shall such sign be painted or drawn upon rocks or other natural features.
12. Changeable Copy Signs. Manual changeable copy signs shall be permitted on permanent freestanding signs only. Manual copy signs shall comprise no more than twenty percent (20%) of the total area of the sign per side or ten (10) square feet per side, whichever is more restrictive. The changeable copy portion of the sign will contribute toward the maximum sign area.

D. **Sign Classification**: Outdoor advertising shall be classified in two sections: Long Term Advertising and Short Term Advertising.

1. Long Term Advertising shall be permitted in I/M and B/C Districts. It shall also be permitted in a Residential District if an in home business is located on the property. All Long Term Advertising is subject to the following regulations contained herein.
 - a. Residential Districts. Permanent signs in residential districts shall conform to the following standards as well as the other applicable standards of the Codified Ordinances:
 - i. Number. No more than one (1) such sign may be located on a lot.
 - ii. Type. All signs must be wood-carved, and are limited to wall signs or freestanding signs.

iii. Off-premises signs. Off-premises signs are prohibited.

iv. Maximum area and height. Signs may not exceed four (4) square feet in area or be more than two (2) feet in height.

v. Illumination. Signs shall not be separately illuminated. This standard is not intended to prohibit the installation of such a sign near a porch light or yard light, which may incidentally illuminate the sign.

b. Non-Residential Districts. Permanent signs in non-residential districts shall conform to the following standards and all other applicable standards of the Codified Ordinances:

i. Number.

* Wall signs. No more than one (1) wall sign shall be permitted. A secondary wall sign no more than 75% of the size of the primary wall sign shall be permitted if the property fronts two (2) or more public streets. No more than one (1) secondary wall sign shall be permitted. Blade and awning and canopy signs shall be considered wall signs.

* Freestanding signs. No more than one (1) sign shall be permitted per site.

* Joint identification signs. No more than one (1) sign shall be permitted. A secondary joint identification sign shall be permitted if the property fronts two (2) or more public streets and is located on a lot more than two (2) acres. No more than one (1)

secondary joint identification sign shall be permitted per development.

ii. Type. All signs not otherwise prohibited by this Section are permitted.

iii. Maximum area and height.

* Wall signs. The total area shall not exceed one (1) square foot per one (1) lineal foot of the length of the wall on which the sign is to be attached or one hundred and forty-four (144) square feet, whichever is most restrictive. The maximum height permitted shall be twelve (12) feet.

* Freestanding signs. The total area shall not exceed sixty-four (64) square feet or six (6) feet in height.

* Joint identification signs. On lots less than ten (10) acres, primary joint identification signs may not exceed sixty-four (64) feet in area or be more than six (6) feet in height. Secondary joint identification signs shall not exceed forty-eight (48) square feet in area or be more than four (4) feet in height. On lots ten (10) acres or greater primary joint identification signs may not exceed one hundred (100) square feet in area or be more than ten (10) feet in height and secondary joint identification signs may not exceed sixty-four (64) square feet or be more than six (6) feet in height.

iv. Illumination. Unless otherwise stated, signs may be illuminated from within or from an external source, but such illumination shall be in a manner which avoids glare or reflection which in any way interferes with

traffic safety. Internally illuminated signs shall have an opaque background and translucent copy. External lighting fixtures shall be aimed and shielded so that direct illumination is focused exclusively on the sign. Fixtures shall be mounted on the top of the sign and aimed downward with the exception of signs not taller than seven feet above grade which may be illuminated by ground mounted uplighting not exceeding 100 lamp watts per sign face. The maximum watts permitted to illuminate a sign shall be two watts per sign face square foot provided at no point on the face of the sign and at no time shall the illumination exceed 30 vertical foot-candles during hours of darkness. Rotating, traveling, pulsing, flashing, blinking, or oscillating light sources, lasers, beacons, search lights, or strobe lighting are prohibited. Colored lights shall not be used at a location or in a manner so as to be confused or construed as traffic control devices. Light sources shall utilize energy efficient fixtures to the greatest extent possible. Neon lights are prohibited.

c. Permit Required. Unless otherwise stated, all Long-Term Advertising signs in residential and nonresidential districts require a Sign Permit. Furthermore, any outdoor advertising sign or billboard, shall be deemed a structure and shall require a zoning permit before being erected, constructed, or replaced. If no permit is obtained, a fine of \$100.00 per day shall be imposed from the time of infraction to time of permitting or removal.

d. All existing signs not meeting these codes shall be required to comply with these requirements by May 31, 2015.

2. Short Term Advertising may occur in all districts unless specified. They are not subject to a permit but must follow the regulations contained herein:

a. Short Term Advertising refers signage which is to be limited in duration. Except for Real Estate or For Rent signs (governed by subsection b) and political signs (governed by subsection d), all Short Term Advertising shall be limited in duration to one (1) week. It shall be prohibited under this section to attempt to

avoid the permit requirements for Long Term Advertising by removing a sign for a short period of time and then replacing the sign. Any sign which is placed on a property for more than seven (7) days shall be considered a Long Term Advertising. However, nothing in this subsection shall be construed to prohibit the repeated use of a sign to advertise a periodically re-occurring event, provided the requirements in subsection c are followed.

b. Real Estate or For Rent signs shall not exceed four (4) square feet total area and only one sign can be placed on each premise. These signs shall also be placed so that they cause no visibility conflict to motorists and obstruct traffic. Real Estate or For Rent signs must be promptly removed when the property in question is sold or rented.

c. Short Term Advertising signs may not be placed more than 4 days in advance of an event. A variance shall be required for any longer time period. Signs must be weather proof laminate, wood, metal, or plastic. Signs may not be placed on trees, street signs, phone or electric poles. Signs must be dated and self-supporting. These signs may not be placed on Village Property. Short Term Advertising signs shall be removed within three (3) days of termination of the dated activity, service, project, sale, or event to which the sign pertains.

d. Political signs are allowed in residential areas only and may not be placed on Village property. Political signs may not be placed before thirty (30) days before the election, and must be removed within three (3) days after the election.

e. No more than four (4) total Short Term Advertising signs may be placed on any one property, regardless of the subject of the sign. This limitation does not apply to political signs.

f. Short Term Advertising signs shall not be separately illuminated. This standard is not intended to prohibit the installation of such a sign near a porch light or yard light, which may incidentally illuminate the sign.

g. Short Term Advertising signs shall not require a permit.

E. **Prohibited Signs**: The following signs and types of signs are inconsistent with the purposes and standards of this Section and are prohibited in all zoning districts:

1. Signs within any public right-of-way unless specifically authorized under this Section.
2. Flashing, moving, rotating, intermittently lighted signs or other mechanical devices.
3. Air actuated attraction devices.
4. Roof signs.
5. Pole signs.

F. **Sign Permits**: To ensure compliance with the regulations of this Section, a Sign Permit shall be required in order to apply, erect, move, alter, reconstruct, or repair any permanent sign, except signs that do not require permits as laid out in this Section. The fee for a Sign Permit shall be \$20.00. A Sign Permit is also required for the lighting of new or the relighting of existing signs. Granting of a Sign Permit from the Zoning Inspector does not constitute a building permit.

1. Review Authority. The Zoning Inspector will review all Sign Permit applications within the Village. The Zoning Inspector has fourteen (14) days from the date of submittal to review all Sign Permit applications and either grant, grant with conditions, or deny the Sign Permit application. If the Zoning Inspector grants a Sign Permit with conditions, the Zoning Inspector shall state the conditions in writing, with citations to relevant portions

of this Section. The applicant shall sign a statement acknowledging the conditions set forth by the Zoning Inspector. If the Zoning Inspector denies a permit application, the Inspector shall do so in writing and state in writing the reason for denial, with citations.

2. Preparation. Applicants for a Sign Permit must submit the following information. Incomplete applications will be denied.

- a. Color sign rendering.
- b. Site plan and elevations.
- c. Sign dimensions and dimensions of sign mounting material, where applicable.
- d. Building façade dimensions, where applicable.
- e. Distance of sign from all public rights-of-way.
- f. Style, type, wattage, and location of all lighting.
- g. Landscaping plan for freestanding signs.
- h. List of construction materials, including sign mounting material, where applicable.

3. Criteria for Approval. The Zoning Inspector shall approve a Sign Permit if the proposed sign conforms to all applicable requirements of this Section.

4. Appeals. The decision of the Zoning Inspector regarding issuance of a Sign Permit, notice to repair, or determination of abandonment may be appealed to the Planning Commission. A written appeal shall be filed within fifteen (15) days of receipt of notification from the Zoning Inspector regarding the Sign Permit, notice to repair, or determination of abandonment. The Planning Commission shall have a maximum of sixty (60) days for a public hearing, deliberation, and a decision on the appeal unless the decision is tabled at the applicant's request. Denial of the appeal by the Planning Commission may be appealed to Council or the Tuscarawas County Court of Common Pleas as provided under the Ohio Revised Code.

If appealing to Council, the appeal shall be filed in writing with the Village Clerk or Fiscal Officer no later than fifteen (15) days after the decision of the Commission. Council shall have a maximum of ninety (90) days from receipt of an appeal for a public hearing, deliberation, and a decision on the appeal. Recourse from the decision of Council shall be the Tuscarawas County Court of Common Pleas as provided under the Ohio Revised Code.

G. **Violations, Penalties, and Remedies:** Any person, firm, corporation, or other entity violating this Section shall be deemed guilty of a minor misdemeanor. Each day that the violation exists shall constitute a separate offense.

SECTION XV. OIL AND GAS WELLS

A. **Application of Regulations:** All provisions of this Section shall apply to all applicants for conditional zoning certificates for oil and gas well permits. Brine disposal shall not be permitted within the corporate limits of the Village of Bolivar, no exceptions. The heirs, executors, or assigns of any individual permittee, and the successors and assigns of any firm, partnership, association or corporate permittee, as fully bound by these provisions as the original permittee. All references to oil and/or gas shall be understood to include any other hydrocarbon products of such well drilling operations.

B. **Intent and Powers of Planning Commission:** It is the intent of this section, in addition to prescribing minimum standards, to make drilling as safe as possible within the Village, and also to cause drilling activity to be carried on in those zoning districts where they are specifically listed as a conditionally permitted use.

The Village is aware of the difficulty in setting rigid rules as to the areas to be included in any one unit. It is the intent of this ordinance to have property drilled, when reasonable and expedient in the Village's judgment, on one permit encompassing all appropriate and compatible properties and to prevent the withholding of permission by a landowner for the sole purpose of later requesting individual permission to drill on the same lot or area.

The Planning Commission is herewith given full authority to impose such requirements as it shall deem necessary to give full force and effect to the intent as expressed in subsection A herein. Each application for a permit shall rest solely upon its merits and the prudent use of discretion by the Planning Commission. The Planning Commission shall evaluate each application for a permit according to procedures as prescribed in Section XXV of the Village Zoning Code.

C. **Permit Required:** No person, corporation or other entity shall commence drilling a well for oil, gas or other hydrocarbons within the corporate limits of the Village until such time as the person has wholly complied with all provisions of this Section and a conditional zoning use has been approved by the Planning Commission. This conditional zoning certificate will expire one (1) year after date of issue if actual on-site drilling has not begun. The Planning Commission may, for good cause, grant an extension up to one (1) year, approved at a scheduled public hearing. No well, or wells, shall begin production until compliance with all provisions are certified by the Zoning Inspector. No person shall be permitted to drill more than two (2) oil/gas wells within the Village at any one time. Application for the third permit or any subsequent permits, may be made upon completion of the drilling of the first, second and each numerically subsequent well.

D. **Permit Application:** Any person desiring to drill a well for oil or gas sited within the corporate limits of the Village shall make application for a conditional zoning certificate to the Planning Commission. All requests for permits must be completed at the time of the application.

A fee shall be paid at the time the application is filed. No refund of any part of a permit fee shall be made to any permit holder for a dry hole or for failure to exercise the privilege to drill upon the site covered by the permit.

E. **Public Hearing**: The Planning Commission shall, before granting a conditional zoning certificate, schedule a public hearing, the date and time of which shall be established by the Planning Commission, and shall cause all property owners and residents within the Village within 500 feet of the wellhead to be notified of such hearing, in writing, all by regular mail, and notice shall be given of such hearing by publication in a newspaper of general circulation in Bolivar. The notice to the property owners and residents must carry a map showing the specific location of the well. The public hearing must occur not less than three (3) weeks prior to the commencement of drilling. It shall be sufficient notice to all of the residents of any one residential unit to address notice to "Resident or Residents: at the mailing address of the residential unit. In addition thereto, the developer shall notify the Village Administrator in writing 48 hours prior to actual drilling. Compliance with the hearing provisions of this Section shall be mandatory conditions precedent to the commencement of drilling under the permit.

F. **Performance Bond**: At the time of the application, every applicant shall deposit with the Village a performance bond conditional upon compliance with this chapter. The amount of the bond, not less than ten thousand dollars (\$10,000), the terms and conditions to be set by the Planning Commission upon issuance of the conditional zoning certificate. The bond shall not only be conditioned upon compliance by the applicant, but also upon compliance with this chapter by any assignee and owner of any permit granted hereunder, or any employee, contractor, subcontractor or other party performing services in connection with any permit issued hereunder. Bond shall be released when wells and tank batteries have been removed and premises restored to predrilling conditions.

G. **Permitted Zoning Districts**: Oil and Gas well drilling shall only be permitted as a conditional use, and only in an I/M Industrial Manufacturing District. The criteria enacted in further subsections are intended to minimize safety, public welfare, and visual concerns through buffering, siting, and design and construction.

H. **Drilling Near Structures; Exceptions**:

1. No drilling shall be permitted for oil or gas wells within 750 feet of residential structures, mercantile buildings, or any school, church, hospital, theater or assembly hall, as the same are defined by the Ohio Revised Code, regardless of the zone.
2. In the case of particular installations where compliance with the foregoing distance requirements may be a handicap to the use of the property and where no undue hazard will be created, the Planning Commission may, with waivers, reduce the distance to not less than 500 feet. Any reduction in distance must be based upon a consideration of the special features such as topographical conditions, nature of occupancy, and proximity of

buildings on the adjoining property, proximity of storage tanks, degree of fire protection provided and the facilities available at the Fire Department to cope with controlling liquid fires.

3. The above features are not to be construed in any way as a limitation of matters which the Planning Commission may consider. The Planning Commission shall have the right to consider any and all other special features it may consider important in determining whether or not an undue hazard is created.

I. **Distance Restrictions:** All distances as set forth in this section shall be those distances as measured from the exact center of a proposed drilling site. No drilling shall be permitted for oil and/or gas wells within 1,000 feet of any well used by the Village of Bolivar or other water utility for the purpose of producing water for public use.

J. **Consent From Property Owners Within 750 Feet:**

1. All applicants for a permit to drill for oil and/or gas in non-industrial and industrial zoned areas in the city shall be accompanied by consents in writing of owners of two-thirds (66%) or more of the real estate units located within a radius of 750 feet from the proposed drilling site. The consents shall plainly state that the persons whose signatures are affixed thereto do give their consent to the drilling of a well for oil or gas on the site as proposed in the application for a drilling permit. Measurement for determination of the distance of the aforesaid 750 feet shall be made from the exact center of the hole that is to be drilled for the well. As used in this section, the term “real estate unit” means a land area with a common ownership irrespective as to how it may be divided among lots.
2. In the event that the owner of any property abutting a proposed well site:
 - a. has leased his property for drilling for oil or gas;
 - b. has signed and filed an application for a permit to drill for oil or gas on his property, or his lessee, contractor, or agent has signed and filed the application;
 - c. has signed and delivered a written assent under this Section to an application for a permit to drill a well for oil or gas; or
 - d. has utilized his property by entering into a community lease or agreement for drilling a well for oil or gas, if the well to which he has assented or which is to be drilled under the community lease or agreement is to be located nearer to his property than the well or proposed well site first above mentioned in this division of this section, then the owner shall not be permitted to object, but shall be deemed to have given his written assent, under the provisions of this section, to drilling as well for oil and/or gas on the proposed well site first mentioned above,

then the owner shall not be permitted to object, but shall be deemed to have given his written assent, under the provisions of this section, to drilling a well for oil and/or gas on the proposed well site first mentioned above.

3. However, any owner who has united his property by entering into a community lease or agreement as set forth in Subsection 2d above, shall not share in any adjacent well production because of conflicting lease interests of the real estate caused by the real estate being in more than one unitized area. It is the expressed intention of this provision to prohibit an owner of property from unitizing identical property under more than one community lease or agreement.

K. **Plot Plan and Vicinity Map**: Each application for a drilling permit must be accompanied by a plot plan and vicinity map of the area involved in the application drawn to scale and showing thereon:

1. The lot lines of all properties within 1,000 feet of the proposed well site;
2. The location of all buildings and structures within 750 feet of the proposed well site;
3. The location of all associated wells and appliances; that is, the wellhead, piping, tank batteries, access roads, drives or fences;
4. A landscaping plan drawn to reasonable scale as required unless specifically waived by the Planning Commission;
5. The names and addresses of the owners and the addresses of the occupants of each;
6. A circle drawn on the map at a radius of 100 feet, 200 feet, 300 feet, 500 feet, 750 feet and 1,000 feet from the proposed well site;
7. A schematic shall be modified and resubmitted to the Planning Commission for informational purposes at any time that a change in either pipeline locations, connections or shutoff valves occur;
8. A listing of the name, address and telephone number of the firm and/or individuals making the permit application; and
9. If the request for a drilling permit is part of a larger planned drilling area, the applicant must submit a plan upon which is shown the location of all projected drilling units, including the proposed locations of the drilling sites.

L. **Affidavit of Compliance or Exception**: An applicant for a permit shall be required to file with the application an affidavit stating that the applicant has complied with all conditions of

this chapter and setting forth any exceptions thereto. Any false statements in the affidavit shall be grounds to refuse to issue a permit to drill or shall be grounds to revoke a permit already issued by the Village.

M. **Easements or Options for Pipelines and Storage Tanks**: An applicant who has received a conditional zoning certificate and has realized a producing well shall submit to the Village Administrator copies of easements or options for easements for a pipeline where the pipeline will be crossing other property and shall also provide a copy of an agreement or option for a location for storage tanks, should there be a producing well.

N. **Existing Applications and Permits**: All applications for permits on file on the date of passage of this Zoning Code shall be governed by the provisions of this Zoning Code.

O. **State Permit Required**: The Planning Commission will consider applications for permits to drill within the corporate limits but will not issue a conditional zoning certificate until the applicant presents evidence of having obtained a permit issued by the Ohio Department of Natural Resources, Division of Oil and Gas, or any other such state agency which may be authorized to issue a valid permit for an oil and gas well.

P. **Permit Issuance; Liability Insurance**:

1. Upon approval by a majority of the Planning Commission of a conditional zoning certificate, the Zoning Inspector shall issue the permit applied for. However, prior to issuance, the Village shall be provided with a policy or certificate of insurance covering the applicant's liability in an amount of not less than \$500,000 property damage and not less than \$1,000,000 personal injury, the amount to be set by the Planning Commission. The insurance policy or policies must be maintained for such period of time as drilling is in progress, the well is in operation or is producing oil or gas, or until the well is pulled and plugged as hereinafter provided. The insurance policies and the coverages thereunder, must be in the complete satisfaction of the Village Solicitor and such policies may be rejected by the Village for any valid reason. The rejection of the insurance policies by the Village shall serve to stay the granting of a permit theretofore approved by it until such time as an insurance policy providing coverage entirely satisfactory to the Village has been provided by the applicant.
2. All insurance coverage shall include coverage for all items specified in this Section including coverage resulting from blowout and cratering.
3. The permittee shall hold the Village of Bolivar harmless from all liability resulting from the granting of a permit through this Section.

Q. **Inspection; Permit Revocation**: The Village Administrator, or a duly authorized representative designated by the Village Administrator, shall have the authority, at any time, to

enter upon property where a drilling site is contemplated, upon property where a well is in the process of being drilled, upon a producing well site, for the purpose of inspecting the site, equipment and all other things necessary to assure compliance with this section.

R. **Information to be Furnished to the Village of Bolivar:** The name, address and telephone number of the persons responsible for the ownership, operation and all maintenance of each producing well located within the village shall be furnished to the Village Administrator, police department and fire department in order that some responsible person may be reached at any time in the event of an emergency. The Police Chief shall prepare a list of such names and addresses and shall keep the list posted in a conspicuous place in the Police Department for ready reference. Detailed instructions regarding the shutdown procedures for each well shall be filed with the Village and the Fire Chief.

S. **Maintenance of Well Sites; Ingress and Egress; Landscaping:**

1. The applicant shall install a 40-foot long culvert at each entrance or exit to provide for a gravel cushion at road edge to prevent berm and roadway destruction.
2. A gravel entry path, the construction of which shall be approved by the Village Administrator, shall be laid to reduce the amount of mud being carried to the right of way.
3. The well site shall be landscaped and maintained in a manner as approved by the Planning Commission.

T. **Rotary Equipment:** The drilling preparation used in wells drilled with rotary equipment shall be capable of sealing off each oil, gas, brine or fresh water stratum above the producing horizon or objective formation and shall be capable of preventing blowouts and flows of salt or fresh water, in accordance with good well drilling practice.

U. **Cable Tools:** Wells drilled with cable tools shall have the innermost string of casing equipped with a high pressure master gate valve and control head and an oil saver, securely anchored by concrete, prior to drilling any formation likely to contain oil or gas.

V. **Training of Crews; Condition of Equipment:** All crews shall be trained in the operation of the blowout preventer, control head and related equipment and all equipment to be used shall be in good condition.

W. **Sealing to Protect Fresh Water Wells:** It shall be the duty of the permittee to seal gas and oil wells to protect fresh water wells from salt water or other pollution or contamination in such proper manner as is in accordance with good practice. Both the permittee and his driller shall establish contingency plans for the immediate furnishing of potable water to affected residents for such period as may be required to reestablish proper potability on any polluted or contaminated well or wells. The permit holder and the driller shall be jointly and severally

responsible for the obligation to provide potable water, without cost to the affected parties receiving the same. The drillers' responsibility shall include covering the cost of drilling new wells or extending village water service including tap-in fee should that be necessary.

X. **Fence Requirements; Electric Powered Well Pump Required:**

1. A permittee shall maintain a fence around the drilling site in accordance with good oil field practice. Should a well be a producer, the permittee shall, on completion of the well, construct a fence, as specified by the Planning Commission, around the well pump, and shall thereafter maintain that fence in a good state of repair. All landscaping shall be completed as soon as possible after setting of the storage tanks, but in no case longer than six (6) months.
2. All well pumps shall be operated by explosion-proof electric motors only unless otherwise approved by the Planning Commission for good cause shown.
3. All existing and future tank batteries, separators, drainage pits and all other installations of equipment used at oil well installations located within the corporate limits of the Village, shall be surrounded by a fence, which fence shall be the sufficient height and construction to meet with the approval of the Planning Commission. The fence shall be maintained in a state of repair satisfactory to the Village Administrator. The fence shall be a minimum of six (6) feet high, of design and material specified by the Planning Commission, with suitable locking gates for access. Locking devices used on all gates, valves or other secured apparatus in conjunction with any well or tank battery operated by a permittee in the Village of Bolivar shall all be keyed alike so that one key will provide access to any such secured apparatus. A copy of such key will be provided to the Fire Department. All shutoff valves shall be painted a conspicuous common color.

Y. **Prohibited Drainage in Storm and Sanitary Sewers, Water Bodies and Streams, and Surrounding Areas:** No waste, sludge, water, brine or effluents of any type emanating from an oil or gas well shall, in any manner, be emptied or drained into any storm or sanitary sewer or water body or stream within the Village. Such wastes shall be removed from the site in trucks, tanks or similar vehicles for disposal in suitable licensed and permitted disposal sites outside of the Village.

Z. **Storage Tanks; Location and Diking:**

1. Oil well storage tanks must be located a minimum of 500 feet from industrial, commercial or residential structures, mercantile buildings or any church, hospital, theater, assembly hall, library, public building or other public gathering place and at least 150 feet back from a public road or street, regardless of the zone.
2. All oil well storage tanks or groups of tanks situated within the corporate limits of the Village shall be diked or other suitable means taken to prevent discharge of liquid from

endangering adjoining property or reaching waterways. Each dike shall have a capacity of not less than that of the tank or tanks served by enclosure.

3. All dikes shall be continuous with no openings for roadways and no residual opening shall remain as a result of piping passing through.
4. All dikes shall be constructed of earth, clay, steel, masonry or reinforced concrete so constructed as to be watertight and afford adequate protection and, if of concrete or masonry, shall be properly reinforced and shall have footings below the frost line. All pits used for storage or disposal of sludge or lime shall be lined with plastic or comparable material to prevent leaching and shall be of sufficient size to contain all effluents.

AA. **Mud on Site or Streets:** All permittees shall use care at a drilling site to keep the area around the drilling site free of mud which will be carried onto the public streets by any vehicle or other equipment used at the drilling site. Should any mud be carried onto public streets from a drilling site, the permittee shall be required to clean up the streets to the satisfaction of the Village at no cost to the Village. The Village shall have authority to request a permittee to clean up the public streets to the satisfaction of the Village, or failure to take specific steps to reduce mud at a given location as requested by the Village shall be grounds for revocation of a permit and/or forfeiture of the bond posted under this Section.

BB. **Restoration of Public Property; Cleaning Site:**

1. The permittee shall restore the streets, sidewalks and other public places of the Village damaged or destructed in the operations of drilling or preparing to drill to their former conditions immediately upon completion of the drilling.
2. The permittee shall clear the area of all litter, rubbish, machinery, derricks, buildings, oil or other substances used or allied to the use of drilling or producing or brine disposal operations.
3. The permittee will hold the Village harmless from any and all liability growing out of the issuance of a conditional zoning permit for an oil or gas well.

CC. **Abandoned Wells:**

1. In the event that a well is abandoned, it shall be the duty of the owner or lessee to notify the Village Administrator of such abandonment before the well has been abandoned and the equipment removed. A well shall be considered abandoned when it is in a condition in which it is incapable of functioning for thirty (30) days.

2. All permittees shall be required to pull and/or plug a well site on abandonment and remove all aboveground appurtenances and return ground to original grade and condition and follow any other rules or regulations promulgated by any department or division of the state relative to pulling, plugging and abandoning oil or gas wells. This shall be completed within six (6) months.
3. Landscaping may be preserved at the time of abandonment of the well, if feasible and if desired by the property owner.

DD. **Noise Level:** Drilling operations shall be controlled, by double exhausts or otherwise, so that the noise level of actual drilling does not exceed the noise level of 75 decibels in a 500 feet radius during maximum noise production periods. Drilling may occur only during daylight hours on wells located within 1,000 feet of a developed residential area.

EE. **Brine Disposal:** No brine disposal will be permitted within the corporation limits of the Village of Bolivar. All brine disposal will be in accordance with all County, State and Federal regulations.

FF. **Annual Inspection:** In order to insure continued compliance with the provisions of these regulations, the owner/operator or person responsible for the upkeep of the property, shall, prior to the receipt of a conditional use permit, sign a consent form agreeing to an annual inspection of the Well Site by the Village of Bolivar or its designees. This inspection shall be conducted on or about the anniversary date of the receipt of the conditional use permit, and a fee will be required.

GG. **Fees Required:** The Zoning Inspector shall collect all applicable fees and expenses which shall follow:

1. A non-refundable filing and processing fee of two hundred and fifty dollars (\$250.00) shall accompany the conditional use application submitted to the Village Planning Commission.
2. If the conditional use permit is approved by the Village Planning Commission the following permit fees will be collected prior to issuance of a permit:

New Oil or Gas Well = \$ 1,000.00

Each additional Well on original site = \$1,000.00

3. A fee of two hundred and fifty dollars (\$250.00) shall be paid to the Village for the required annual inspection.
4. The applicant for an Oil or Gas Well drilling site shall be responsible for any additional expenses incurred by the Village, or its agents, for any technical and/or engineering services deemed necessary for the Village to perform any reviews or inspections required

by these regulations or any other governmental agencies where such expenses may exceed any fees already collected as provided herein.

HH. **Exceptions by Planning Commission and Council**: A request for an exception to any provision of this Section shall be made in writing to the Village Planning Commission and, where the Planning Commission feels special conditions warrant granting the exceptions, Village Council shall be notified of the decision. Any exception to any of the provisions of this Section must be approved by both the Planning Commission and Village Council.

II. **Severability**: If any provision of this Section is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and the remainder of this Section shall remain in full force and effect.

SECTION XVI. SEXUALLY ORIENTED BUSINESSES

A. **Purpose:** It is the purpose of this ordinance to regulate, through zoning, sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Village. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent, nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

B. **Findings:** Based on evidence concerning the adverse secondary effects of adult uses on communities which have been presented in hearings and in public reports, and on the findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, Ky*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir.1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir.1986); *Hang On, Inc. v. City of Arlington,*, 65 F.3d 1248 (5th Cir. 1995); and *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir.1984), as well as studies conducted in other municipalities; and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the Village finds that:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
2. Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.

3. Sexual acts frequently occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing videos or live sex shows.
4. Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions.
5. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses.
6. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections.
7. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
8. Numerous studies and reports have determined that bodily fluids are found in the areas of sexually oriented businesses where persons view "adult" oriented films.
9. Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity.
10. Nude dancing in adult establishments increases the likelihood of drug-dealing and use.

11. The findings noted in paragraphs numbered (1) through (11) raise substantial governmental concerns.
12. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
13. Zoning is an appropriate mechanism to see that the sexually oriented business is located in an area consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the Village.
14. The general welfare, health, morals, and safety of the citizens of this Village will be promoted by the enactment of this Section.

C. **Definitions:** “Sexually oriented business” is a business which dedicates a substantial or significant portion of its business stock in trade or activities relating to specified anatomical areas or specified sexual activities, and including, but not limited to, the following:

1. adult arcades;
2. adult bookstores or adult video stores;
3. adult cabarets;
4. adult motels;
5. adult motion picture theaters;
6. adult theaters;
7. escort agencies;
8. nude model studios; and
9. sexual encounter centers.

D. **Location**: Subject to all other local and state laws, an adult business may be located only in accordance with the following restrictions:

1. An adult business may only be located in an "I/M" District.
2. No such business shall be located on any lot fronting on Water Street and Poplar Street SW.
3. No such business shall be located within two hundred (200) feet of any residentially-zoned district or any residentially-used lot, public library, private or public elementary or secondary school, public park or place of worship.
4. No such business shall be located within eight hundred (800) feet of another adult business.
5. Measurement to Property Lines: For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult business is conducted, to the nearest property line of the premises of a use set forth above.
6. Measurement to Other Adult Business: For the purpose of this Section, measurement between two (2) adult businesses shall be made in a straight line, without regard to intervening Structures or objects, from the closest exterior all of the structure in which each business is located.

E. **Nonconforming Status**: An adult business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a residentially-zoned district or any residentially-used lot, public library, private or public elementary or secondary school, public park or place of worship within eight hundred (800) feet of the adult business.

F. **Hours of Operation**: No adult business shall be open between the hours of 12:00 a.m. and 8:00 a.m.

G. **Signs and Advertising**: Advertising, signs, or any other exhibit depicting adult entertainment activities shall be arranged or screened to prevent public viewing from outside the building or premises. No outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to an adult use is permitted.

H. **Limitations**: Nothing in this section shall be construed to prohibit or limit the display, sale rental of descriptive, printed, film, or video material or any live performance which, taken as a whole, contains serious literary, artistic, political, medical, educational, or scientific value.

I. **Penalty**: No person, firm, corporation, or any other entity shall violate the terms as set forth in this Ordinance. Failure to comply with this Ordinance shall be a minor misdemeanor. Any additional violations of this Ordinance within a twelve (12) month period shall subject the defendant to a fine of up to \$250.00 and up to thirty (30) days in jail. Any person, firm, corporation, or other entity violating this order shall be deemed guilty of a minor misdemeanor. Each day that the violation exists shall constitute a separate offense.

SECTION XVII. GAME OF SKILL/GAMBLING OPERATIONS

A. **Definitions:**

1. Gambling operation. As used in this Section, a gambling operation shall be defined as a business operated primarily for the purposes of providing customers with the opportunity to engage in games of chance, as defined by ORC 2915.01.
2. Game of skill operation. As used in this Ordinance, a game of skill operation shall be defined as business operated primarily for the purposes of providing customers the use of “Skill-based amusement machines” as defined by ORC 2915.01.

B. **Location:** No gambling or game of skill operation which violates the laws of the State of Ohio shall be permitted within the Village of Bolivar. Subject to all other local and state laws, any gambling or game of skill operations not so prohibited may be located only in accordance with the following restrictions:

1. A gambling or game of skill operation may only be located in an “I/M” District.
2. No such business shall be located on any lot fronting on Water Street SW and Poplar Street SW.
3. No such business shall be located within two hundred (200) feet of any residentially-zoned district or any residentially-used lot, public library, private or public elementary or secondary school, public park or place of worship.
4. No such business shall be located within eight hundred (800) feet of another gambling or game of skill operation.

5. **Measurement to Property Lines:** For the purposes of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a gambling or game of skill operation is conducted, to the nearest property line of the premises of a use set forth in subsection 3 above.
6. **Measurement to Other Gambling or Game of Skill Operation:** For the purposes of this Section, measurement between two (2) gambling or game of skill operations shall be made in a straight line, without regard for intervening structures of objects, from the closest exterior wall of the structure in which each operation is located.

C. **Nonconforming Status:** A gambling or game of skill operation lawfully operating as a nonconforming use is not rendered a non-conforming use by the subsequent location of a residentially-zoned district or any residentially-used lot, public library, private or public elementary or secondary school, public park or place or worship within eight hundred (800) feet of the gambling or game of skill operation.

D. **Hours of Operation:** No gambling or game of skill operation shall be open between the hours of 12:00 a.m. and 8:00 a.m.

E. **Signs and Advertising:** No outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to a gambling or game of skill operation is permitted.

F. **Exceptions:**

1. **Charitable Organizations.** Nothing in this Section shall be construed to prohibit or limit the ability of charitable organizations (as defined by ORC 2915.01 as "any tax exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth

athletic, amateur athletic, or youth athletic park organization”) to conduct charitable bingo games, as set forth in ORC 2915.01, within the limits of the Village of Bolivar.

2. Bingo for Amusement Only. Nothing in this Section shall be construed to prohibit or limit Bingo for the purposes of amusement only, as allowed under the terms and conditions set forth in ORC 2915.12, within the limits of the Village of Bolivar.
3. Sale of Lottery Tickets. Nothing in this Section shall be construed to prohibit or limit the sale of such lottery or scratch-off tickets (including Keno) as authorized by the State of Ohio within the limits of the Village of Bolivar.
4. Isolated Game Machines. The Village Council recognizes that certain business may contain machines which could be interpreted as games of skill or games of chance. The fact that a business contains one or more of any such games does not mean that it falls under this Section, so long as the games are not the main focus of the business operations, and the total of such games is less than three (3).

G. **Penalty:** No person, firm, corporation, or any other entity shall violate the terms as set forth in this Section. Failure to comply with this Section shall be a minor misdemeanor. Any additional violations of this Section within a twelve (12) month period shall subject the Defendant to a fine of up to \$250.00 and up to thirty (30) days in jail if found guilty.

SECTION XVIII. PARKING AND LOADING REGULATIONS

A. **General Regulations:** No building or structure shall be erected, substantially altered, or its use changed in any zoning district without providing off street parking and or loading spaces. This off-street parking and loading must be constructed of concrete or asphalt, and shall be maintained in good condition. Any alternate means of paving must be approved by the Planning Commission by means of a variance. If any additions or alterations are made to an existing building or properties which require additional parking, any and all existing parking and loading spaces must also be paved to comply with this Section. The property owners shall be required under this Section to keep any and all parking and loading spaces maintained and in good repair. Failure to do so shall be considered a violation of this Section.

All dwellings and apartment houses shall provide parking space off the road or street and outside of the public right of way, together with means of ingress and egress thereto, for not less than one motor vehicles per dwelling unit or apartment. Not less than two hundred (200) square feet of area shall be deemed necessary for each such vehicle.

All class B & C uses shall provide adequate parking space off road or street, outside of the public right of way.

B. **Parking Space Dimensions:** All parking space shall have minimum rectangular dimensions of not less than nine (9) feet in width and nineteen (19) feet in length for ninety (90) degree parking; nine (9) feet in width and twenty-three (23) feet in length for parallel parking; ten (10) feet in width and nineteen (19) feet in length for sixty (60) degree parking; and twelve (12) feet in width and nineteen (19) feet in length for forty-five (45) degree parking. All dimensions shall be exclusive of driveways, aisles, and other circulation areas.

C. **Loading Space Requirements and Dimensions:** A loading space shall consist of a rectangular area of one (1) of the following classes:

1. Class A: An area at least fourteen (14) feet by fifty-five (55) feet having a vertical clearance of fifteen (15) feet or more, plus adequate area for ingress and egress.
2. Class B: An area at least twelve (12) feet by thirty (30) feet having a vertical distance of fifteen (15) feet or more, plus adequate area for ingress and egress.

Loading space shall be provided for retailing, wholesaling, warehousing, processing, hotel, hospital, and display of goods uses, and for similar uses requiring the receipt or distribution by vehicles of material or merchandise, in accordance with the following schedule:

BUILDING AREA (square feet)	REQUIRED CLASS
Less than 750	None required
750 to 1,499	1 Class B
1,500 to 2,499	1 Class A or 2 Class B
2,500 to 9,999	1 Class A and 1 Class B or 3 Class B
10,000 to 49,999	1 Class A and 1 Class B or 3 Class B, plus 1 Class A for each 10,000 sq. ft. over the first 10,000 sq. ft. of area
More than 50,000	1 Class A for each 10,000 sq. ft. over the first 10,000 sq. ft. of area, plus 1 Class A for each 25,000 sq. ft. over the first 50,000 sq. ft.

D. **Paving**: The required number of parking and loading spaces, together with driveways, aisles, and other circulation areas, shall be surfaced with concrete, asphaltic concrete, premixed asphalt pavement, blacktop, or brick so as to provide a durable and dustless surface. Off-street parking area designs shall be reviewed and approved by the Village prior to issuance of a Certificate of Zoning Compliance. All access driveway aprons shall be graded for proper drainage and surfaced with concrete. Access driveway and apron designs shall be reviewed and approved by the Village prior to construction.

E. **Drainage**: All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways.

F. **Maintenance**: The owner of property used for parking and/or loading shall maintain such area in good condition without holes and free of all dust, trash, and other debris.

G. **Lighting**: Any parking area which is intended to be used during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be so arranged as to reflect the light away from the adjoining property.

H. **Location of Parking Spaces**: The following regulations shall govern the location of off-street parking spaces and areas:

1. Parking spaces for all single-family or duplex residential dwellings shall be located on the same lot as the use which they are intended to serve.

2. Parking spaces for commercial, industrial, or institutional uses shall be located not more than 700 feet from the principal use. Parking lots farther than 700 feet from the principal use may be approved by the Planning Commission.
3. Parking spaces for apartments, dormitories, or similar residential uses shall be located not more than 300 feet from the principal use.

I. **Minimum Distance and Setbacks**: No part of any parking area for more than five (5) vehicles shall be closer than twenty (20) feet to any dwelling unit, school, hospital, or other institution for human care located on an abutting or adjoining lot, unless separated by a solid wood privacy fence or other approved constructed screen of between four (4) and six (6) feet in height. If on the same lot with a one-family residence, the parking area shall not be located within the front yard required for such building. In no case shall any part of a parking area be closer than four (4) feet to any established street or alley right of way.

J. **Wheel Blocks**: Whenever a parking lot extends to a property line, wheel blocks or other suitable devices shall be installed to prevent any part of a parked vehicle from extending beyond the property line.

K. **Access**: The frequency of access points along thoroughfares in Bolivar is to be minimized to reduce vehicle and pedestrian conflict and improve traffic flow. Access drives (driveways) leading to and from a street shall be developed according to the following standards:

1. Width. An access drive serving a single-family residence shall be a minimum of ten (10) feet in width. Access drive entrances at a street shall be a minimum of eighteen (18) feet in width. All access drives shall not exceed twenty-five (25) feet in width, except at curb returns.
2. Spacing. The following standards shall apply to determining the permitted spacing of access drives.
 - a. For all arterials and collectors, the following minimum spacing related to the posted speed limit shall be required between adjacent access drives:

POSTED HIGHWAY SPEED (mph)	MINIMUM SPACING (feet)
25	50
30	50
35	75
40	100
45	150
50	150

b. For non-residential uses on local streets, the minimum distance between access drives shall be twenty-five (25) feet.

c. For all arterials, access drives shall be located no closer than three hundred (300) feet to an intersection.

3. Side Lot Lines. An access drive, exclusive of curb returns, shall be located no less than ten (10) feet from the side lot line, except that an access drive for a residential use may be within three (3) feet of a side lot line. Access drives for any uses utilizing a common drive may be adjacent to and coterminous with a side lot line.

4. Quantity Permitted. The number of access drives shall be kept to a minimum to promote safe and reasonable access, improve the convenience and ease of movement of travelers, and permit reasonable speeds and economy of travel while maintaining roadway capacity. For lots with less than two hundred (200) feet of frontage on public right(s)-of-way and with less than five (5) acres in total area, no more than two (2) access drives shall be permitted. For lots with more than two hundred (200) feet of road frontage on public right(s)-of-way and greater than five (5) acres in total area, additional access drives may be permitted by the Planning and Zoning Commission.

L. **Schedule of Parking Spaces:** The minimum number of off-street parking spaces, exclusive of ADA requirements, shall be as set forth in the following schedule. For uses not specifically named herein, the requirement shall be the same as required for a listed use similar in nature, as determined by the Planning Commission.

USE	REQUIRED PARKING SPACE
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Automobile service station	1 for each 3 pumps plus 1 for each service bay
Automobile repairs	1 for each 300 sq. ft. of gross floor area
Assembly hall, club room, place of amusement or similar place of assembly without fixed seating	1 for each 1,000 sq. ft. of gross floor area
Banks, savings and loans, business and administrative offices	1 for each 400 sq. ft. of gross floor area
Bed and breakfast inns	1 for each guest room
Bowling alleys, tennis courts or similar place of intensive public activity	1 for each alley, court or similar activity area
Business, technical and trade school, college and university	1 for each 3 students
Business and Professional Offices not elsewhere specified	1 for each 200 square feet of office space
Dance halls and assembly halls without fixed seats, exhibition halls except church assembly rooms in conjunction with auditorium	1 for each 250 sq. ft. of gross floor area used for assembly or dancing

Day care centers, children's nurseries and preschools	1 for each classroom but not less than 5 per center
Drive-up window service or fast-food restaurants, with seating	1 for each 150 sq. ft. of gross floor space
Drive-up window service or fast-food	1 for each 250 sq. ft. of gross floor area
Driving range	1 for each 2 playing locations
Dwellings other than multi-family	2 for each dwelling unit
Eating and drinking establishments with no drive-up window service	1 for each 100 sq. ft. of gross floor space
Electronic products store-retail	1 for each 500 sq. ft.
Elementary and middle schools	1 for each teacher and staff member, plus 1 for each student up to three (3) percent of the student body
Funeral homes, mortuaries	1 for each 150 sq. ft. of floor area in slumber rooms, parlors, or service rooms
Furniture and appliance stores,	

household equipment or furniture repair shop	1 for each 400 sq. ft. of gross floor area
Golf course	2 for each hole plus 1 space for each 2 employees on combined work shifts
Health care maintenance and emergency	1 for each treatment room plus one for every employee on the largest shift
High school	1 for each 3 students
Hospitals	.5 for each bed
Indoor swimming pool or natatorium	1 for each 5-person capacity (1 person/1,000 gallons of pool capacity) plus 1 for each 4 seats or 30 sq. ft. of seating floor area
Indoor sales exclusively of motor vehicles, aircraft, watercraft, lumber, plants and furniture	1 for each 1,000 sq. ft. of sales area
Libraries, museums or art galleries	1 for each 500 sq. ft. of gross floor area
Manufacturing, warehousing, wholesaling, or similar establishments	1 per 1,000 sq. ft. of gross building area
Medical and dental offices and clinics	1 for each 200 sq. ft. of gross floor area

Miniature golf course	2 spaces for each hole plus 1 for each 2 employees on combined work shifts
Motels and hotels (not including restaurant facilities)	1 for each living or sleeping unit plus one space for each two employees
Multi-family residential	2 for each dwelling unit
Outdoor display and sales	1 for each 1,000 sq. ft. of display area
Outdoor swimming pool	1 for each 5-person capacity (1 person/500 gallons) plus space for supplementary uses
Personal services such as barber shop or beauty shop	1 space for every chair
Personal and Consumer Services not elsewhere specified	1 for each employee plus one for each 400 square feet of office space
Recreational uses not elsewhere specified	1 for each 3 patrons
Restaurants and bars	1 for each 100 sq. ft. of gross floor area

Retail sales or services not elsewhere specified	3 for first 1,000 sq. ft. plus 1 for each additional 500 sq. ft. of gross floor area
Sanitariums, convalescent homes, children's homes	1 for each 2 beds
Service-related uses such as printing or plumbing shops	1 for each 2 employees plus 1 for every 2 vehicles used for service or delivery
Shopping centers including supermarkets	3 for each 1,000 sq. ft. of gross floor area
Sports arenas, auditoriums, theaters, assembly halls, churches, or similar place with fixed seating	1 for each 4 seats
Video rental store	1 for each 300 square feet of gross floor area

1. Where two (2) or more uses are provided on the same lot, including principal and supplementary uses, the total number of spaces required shall be reduced. In order to determine the number of parking spaces required, take the sum of the individual requirements and multiply by (.75).
2. Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that a written agreement approved by the Planning Commission shall be filed with the application for a before a certificate of zoning compliance is issued.

3. The calculation of parking spaces shall be to the next highest whole number where a fractional space results.

4. Whenever a building or use is constructed or enlarged in gross floor area, by number of employees, by number of dwelling units, by seating capacity or otherwise after the effective date of this Zoning Code such as to create a requirement under this chapter for an increase of thirty (30) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

M. **On-Street Parking Requirements**. Any and all requirements related to on-street parking as contained in the Ohio Revised Code shall apply to all on-street parking within the Village of Bolivar.

SECTION XIX. MINIMUM DWELLING SIZES

- A. **R-1 District**: No single-family dwelling located in an R-1 District shall be erected with less than sixteen hundred (1,600) square feet of gross ground floor area, exclusive of breezeways, porches, terraces, and garages.
- B. **R-2 District**: No single-family dwelling in an R-2 District shall be erected with less than twelve hundred (1,200) square feet of gross ground floor area, exclusive of breezeways, porches, terraces, and garages, if the dwelling has a basement. If the dwelling does not have a basement, then the dwelling shall not be less than fourteen hundred (1,400) square feet; and shall be not less than twenty (20) feet in width or depth, whichever is the smaller dimension.
- C. **Dwellings in Other Districts**: The Village recognizes that dwellings may be erected in any other District under the regulations contained in this Zoning Code. Any single-family dwelling erected in a non-residential district shall conform with the minimum dwelling size requirements as set forth in Subsection B above.
- D. **Violation, Penalty**: Any person, firm, corporation, or other entity violating this order shall be deemed guilty of a minor misdemeanor. Each day that the violation exists shall constitute a separate offense.

SECTION XX. MINIMUM LOT REQUIREMENTS

A. **Requirements**: This Section sets forth the minimum requirements for the arrangement of lots and spaces to be achieved in all developments within the Village of Bolivar. All setback lines shall be measured from the overhang of the any structure, not from the wall of the structure.

B. **Lot Area and Yard Space Preserved**: The lot area and yard space required for a use or structure shall be maintained during its life and shall not be reduced below the minimum requirement, occupied by another use or structure, paved for parking, or counted as yard space for any other use or structure.

C. **Yards Required Open**: The yard space required for a use or structure shall, during its life, remain free of all uses or occupancies except as follows:

1. Fences, walls, and landscaping shall be permitted in any required yard, or along the edge of any yard, provided that such items meet the other requirements set forth in this Zoning Code.
2. Eaves, cornices, windowsills, and belt courses may project into any required yard a distance not to exceed two (2) feet.
3. Open and uncovered porches may project beyond the front building line or into a required rear yard.
4. Driveways shall be permitted in required yards, but shall be three (3) feet or more from any property line, except where such driveways are developed jointly as a common drive to adjoining lots.

D. **Single-Family Dwellings**:

1. No single-family dwelling shall be erected, or building altered, to accommodate one (1) family as a residence in the Village unless the lot on which the dwelling is located is has a minimum area of seventy two hundred (7,200) square feet.

2. All single-family dwelling properties located within the Village shall be required to establish sanitary sewer and water services.

E. **Duplex or Other Multi-Family Dwellings:**

1. No duplex or other multi-family dwelling shall accommodate more than one (1) family unless there is a minimum of three thousand (3,000) square feet of lot area per family.
2. All duplex or other multi-family dwelling properties located within the Village shall be required to establish sanitary sewer and water services.

F. **Lot Area Computation:** Lot area computation shall start thirty (30) feet from the center of the right of way unless right of way is new or is contemplated to be of more than sixty (60) feet wide, in which case the computation will start at the edge of the right of way.

G. **Minimum Lot Width:**

1. No dwelling shall be erected in any District on a lot having a width at the building setback line of less than sixty (60) feet, unless such lot was designated on a recorded plat or separately owned at the time this Zoning Code takes effect and cannot be practicably enlarged to comply with this requirement.
2. No minimum lot width shall be required on a "B/C" or "I/M" district for uses other than dwellings, except such as is necessary to comply with the requirements for yard and lot areas or parking facilities.

H. **Setback Lines:** No building or structure or any portion thereof, except steps and uncovered porches less than ten (10) feet in width, shall be erected within thirty (30) feet of the

right of way side line of any road or street. If there is no established right of way side line for any road or street, said side line shall be deemed to be thirty (30) feet from the center of the road.

I. **Side Yards:** For every building erected in R-1 and R-2 districts, there shall be a minimum side lot clearance on each side of said building of not less than ten (10) feet which space shall remain open and unoccupied by any building or structure.

J. **Corner Lots:** On a corner lot the principal building and its accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yard in the district in which such structures are located, but in no event shall be less than twenty (20) feet.

K. **Rear Yards:**

1. For every building erected in R-1 and R-2 districts and for every dwelling erected in any district, there shall be a minimum rear lot clearance at the rear of said building of at least fifteen (15) feet, which space shall remain open and unoccupied by any building or structure.
2. Where a business or industrial district adjoins a residential district, no business or industrial building shall be erected less than fifty (50) feet from the nearest residential lot line.

L. **Rear Houses:** No dwelling or apartment house shall be erected, altered or used unless the same shall have access to a public street, and, if located in the rear of another building and has no immediate frontage, then a permanent easement for access shall be provided over an unoccupied strip of land at least twenty (20) feet in width. Such reserved strip may not form a part of any lot width or lot yard or lot area required by this Section. If more than one (1) dwelling is located in the rear of another building and has no immediate street frontage, then said easement for access shall be not less than forty (40) feet in width and each additional said rear house shall be subject

to the same requirements for frontage on the easement for access and other requirements for lot and yard areas as though said dwelling were located on a public street. Said easements shall be executed with the requirements provided by law for deeds and shall be filed with the Recorder.

M. **Visibility at Intersections:**

1. On a corner lot in any residential district, nothing shall be erected, constructed, placed, planted, or allowed to grow in such a manner so as to materially impede vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection.
2. In nonresidential zones at intersections of street rights of way, a sight triangle shall be established as described by the right-of-way lines of the intersection streets and the third side being a line passing through a point on each right-of-way line that is a distance from their point of intersection equal to the sum of the width of both rights of way divided by four.

N. **Violations, Penalties:** Any person, firm, corporation, or other entity violating this order shall be deemed guilty of a minor misdemeanor. Each day that the violation exists shall constitute a separate offense.

SECTION XXI. NONCONFORMITIES

A. **Purpose and Intent**: Within the districts established by this Zoning Code or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Zoning Code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Zoning Code or future amendments. It is the intent of this Zoning Code to permit these nonconformities to continue until they are removed, but not to encourage additional non-conformities.

B. **Partially Constructed Buildings**: To avoid undue hardships, nothing in this Zoning Code shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning Code and upon which actual building construction has been carried on diligently.

C. **Nonconforming Lots**:

1. The construction of a conforming structure and/or the conduct of a permitted use shall be allowed on any lot of record which has an area and/or lot width less than that required for such structure or permitted use in the zoning district in which the lot is located. Variance of any development standard other than minimum lot area and/or minimum lot width shall be obtained only through action of the Planning Commission in accordance with Section XXV.
2. Such nonconforming lots must be in separate ownership and not of continuous frontage with other land in the same ownership on the effective date of this Zoning Code. Otherwise, development shall be permitted only in accordance with development standards of the zoning district in which such ownership is located.

D. **Nonconforming Structures and Developments**: Structures and/or accessory development, which by reason of size, type, location on the lot, or otherwise in conflict with regulations of the zoning district in which they are located may be altered, reconstructed or extended on appeal to the Planning Commission, provided the applicant shows that:

1. The nonconforming structure and development was lawful at the time of enactment of this Zoning Code.

2. Such alteration, reconstruction or extension is necessary and incidental to such existing lawful nonconforming use as demonstrated by the applicant.
3. Such extension shall not increase the total floor area by more than fifty (50) percent.
4. No extension shall be requested within two (2) years of the last previous extension as approved by the Planning Commission.

E. **Nonconforming Uses**: The lawful nonconforming use of a lot and/or structure may be continued, expanded, substituted, changed, or re-established subject to the following:

1. Continuation. The lawful use of any dwelling, building, or structure, and of any land or premises, as existing at the time of enactment of this Zoning Code, may be continued. However, if any such nonconforming use is voluntarily discontinued for a period of six (6) months or more, any future use of such land shall be in conformity with this Zoning Code.
2. Expansion. A lawful nonconforming use may be expanded within an existing structure manifestly arranged or developed for such use on appeal to the Planning and Zoning Commission, provided the applicant shows that:
 - a. The nonconforming use was lawful at the time of enactment of this Zoning Code.
 - b. Such expansion is necessary and incidental to such existing lawful nonconforming use as demonstrated by the applicant.

- c. No expansion shall be requested within two (2) years of the last previous expansion as approved by the Planning Commission.

3. Substitution. On approval of an appeal to the Planning Commission, the substitution of a lawful nonconforming use existing at the time of enactment of this Zoning Code by another lawful nonconforming use may be permitted if no structural alterations, except those required by law or resolution are made, provided that any use so substituted shall be of the same or a more restricted classification, subject to approval of an appeal to the Planning Commission, provided the applicant shows that:
 - a. The nonconforming use was lawful at the time of enactment of this Zoning Code.

 - b. Such substitution is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.

 - c. No substitution shall be requested within two (2) years of the last previous expansion as approved by the Planning Commission.

 - d. Re-establishment. A lawful nonconforming use of any structure damaged by fire, explosion, flood, riot, or act of God may be continued and used as before any such calamity, provided the building or structure has not been destroyed to an extent of more than one-half ($\frac{1}{2}$) of its fair value, and provided such reconstruction is started within twelve (12) months of such calamity and is continued in a reasonable manner until completed.

 - e. A building or structure devoted to a nonconforming use at the time the Zoning Code takes effect may not be altered or enlarged so as to extend said nonconforming use.

f. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted or nonconforming use.

F. **Violation; Penalty:** Any person, firm, corporation, or other entity violating this Section shall be deemed guilty of a minor misdemeanor. Each day that the violation exists shall constitute a separate offense.

SECTION XXII. BUILDING PERMITS

A. **Applications for Building Permits**: Before constructing or enlarging any structure, the applicant must do the following:

1. Obtain and complete an application for building permit from the Zoning Inspector.
2. Deliver application and application fee as set forth below for the building permit to the Zoning Inspector.
3. Attach with the application for building permit the following documents:
 - a. Plans and specifications if additions, alterations, and/or new construction.
 - b. Mortgage location survey or other survey from certified surveyor in the State of Ohio showing exact location, size, and use of proposed structure.
 - c. A written estimate of project cost.
 - d. Property pins must be located by owner or contractor and verified to the Zoning Inspector.
 - e. Provide plot plan showing adjacent properties, location of any buildings and their distance from the applicant's property lines.

B. **Fees for Building Permits**: There shall be a filing fee of Twenty Dollars (\$20.00) per Ten Thousand Dollars (\$10,000.00) of project cost. The minimum non-refundable amount shall constitute Twenty Dollars (\$20.00) and be due at time of filing. In addition to the application fee, the applicant is responsible for any and all legal fees incurred by either the applicant or Village resulting from the applicant submitting said building permit.

C. **Time Limitations**: Any construction under a building permit obtained within the Village must be completed according to specifications within twelve (12) months of issuance of the building permit. If the project is not completed according to specifications within twelve (12) months of the issuance date, a Stop Work Order will be issued to the applicant. The applicant shall file a request for re-evaluation with the Planning Commission by the last day of said permit. Upon filing a re-evaluation request with the Planning Commission, the applicant must cease any further building on the property until the Planning Commission decides whether or not to grant an additional building permit or extension thereof to the applicant. Failure to comply with this

request shall result in criminal liability as set forth herein. In the event that the applicant fails to file a re-evaluation request prior to the expiration of the building permit, said applicant must cease performing work immediately. The applicant will thereafter have to re-file for a new building permit according to the terms and conditions as set forth above before performing any additional work on the premises.

D. **Construction Without a Building Permit**: No person, firm, corporation, or any entity shall construct, or enlarge any structure without first obtaining a building permit pursuant to the guidelines as set forth herein. In the event that any person firm, corporation, or other entity commences work without the necessary permit, they will be in violation of this Section and a Stop Work Order will be issued immediately.

E. **Violation; Penalty**: Any person, firm, corporation, or other entity violating this order shall be deemed guilty of a minor misdemeanor. Each day that the violation exists shall constitute a separate offense.

SECTION XXIII. STOP WORK ORDERS

A. **Authorization:** The Village Council authorizes the Bolivar Police Department, Street Superintendent, and Zoning Inspector to notify any citizen within the Village of Bolivar to stop work immediately if the work being performed violates or appears to violate this Zoning Code or any Ordinance of the Village of Bolivar. A copy of the approved Stop Work Order form to be provided to any citizen believed to be violating the zoning code is attached herein.

B. **Effect:** No person, firm, corporation or other entity shall continue performing work on the property within the Village upon receiving a written Stop Work Order from the authorized employee as set forth in Paragraph A, until the project subject to the Stop Work Order is officially approved by the Zoning Inspector. The Zoning Inspector shall inspect the property at issue within a reasonable time period after the Stop Work Order is issued.

C. **Stop Work Order Form:**

Reason for stop work _____

I understand that upon receipt of this written Stop Work Order, I must stop any work immediately until the project is officially approved by the Zoning Inspector. I have not relied upon any oral representations from the person providing the written Stop Work Order.

Signature

Date

SECTION XXIV. ENFORCEMENT

A. **General**: The Village of Bolivar has implemented the following violation, penalty, and remedy Section to assist in enforcement of the planning and zoning regulations within the Village of Bolivar, Ohio.

B. **Certificate of Zoning Compliance**:

1. Use Prohibited Without Certificate. No owner, lessee or tenant shall use or permit the use of any structure, building or land, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a Certificate of Zoning Compliance shows that such building or premises or a part thereof, and the proposed use thereof, are in conformity with the provisions of this Zoning Code.
2. The Zoning Inspector shall issue a Zoning Certificate provided he/she is satisfied that the structure, building and/or premises, the proposed use thereof, and the proposed methods of water supply and disposal of sanitary waste, conform with all requirements of this Zoning Code, subject to approval of the Planning Commission and/or Council where the Zoning Code requires or deems appropriate.
3. This section shall in no case be construed as requiring a certificate in the event of a change in ownership or tenancy only, without a change in use or intended use, provided that no alterations or additions are proposed for such building.
4. Effect of Approval. Zoning Certificates issued on the basis of plans, information and application approved by the Zoning Inspector or Planning Commission authorize only the use, arrangement and construction set forth in such approved plans, information and application or approved amendments thereto, and no other use, arrangement or construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this Zoning Code and punished as provided in this Section.

C. **Temporary Uses**: The following regulations are necessary to govern the operation of certain uses that are non-permanent in nature. Application for a Temporary Zoning Permit, where applicable, shall be made to the Zoning Inspector. Such applications must contain a graphic description of the property to be utilized and a site plan, a description of the proposed use, and sufficient information to determine yard requirements, setback, sanitary facilities, and parking

space for the proposed temporary use. The following uses are deemed examples of temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

1. A real estate sales office including a mobile office may be permitted within any district for any new subdivision which has been approved by Bolivar. Such office shall contain no living accommodations. The permit shall be valid for six (6) months, but may be granted six (6) month extensions if conditions warrant such renewal. Such office shall be removed upon completion of sales of the lots therein, or upon expiration of the Temporary Use Permit, whichever occurs sooner.
2. Temporary offices including mobile offices for contractors and equipment sheds incidental to construction projects may be permitted within any district. The permit shall not be valid for more than one (1) year but may be renewed for six (6) month extensions if construction is substantially underway. Such uses shall be removed immediately upon completion of the construction project, or upon expiration of the Temporary Use Permit whichever occurs sooner.
3. Garage sales, as permitted in Section III.

D. **Application for Certificates of Zoning Compliance**: Written application for Certificates of Zoning Compliance shall be made by the property owner(s) or lessee(s) to the Zoning Inspector. A fee of \$20.00 per \$10,000.00 of project cost shall be paid by the applicant to cover the costs of review and reporting of the application, payable to the General Fund. The application for a Certificate of Zoning Compliance shall contain as a minimum:

1. Name, address, and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s).
2. A current survey of the property prepared by a licensed surveyor.
3. If a change of use is proposed, a plan drawn to scale showing:

- a. Actual dimensions of the lot including easements;
 - b. Exact size and location of all buildings and structures on the subject lot;
and
 - c. Existing and intended use of all parts of the land or buildings.
4. If any new development or construction is proposed, a plan drawn to scale showing:
- a. Actual dimensions of the lot including easements;
 - b. Exact size and location of all buildings and structures on the subject lot;
 - c. Existing and intended use of all parts of the land or buildings;
 - d. Any proposed new construction and or alteration;
 - e. Proposed provisions of water, sanitary sewer facilities, surface drainage features, and underground storm drainage facilities;
 - f. Location of all other public utilities above or below ground;
 - g. Proposed grades;
 - h. Proposed top of foundation; and

- i. Proposed driveway slope.
5. For all building construction projects the following shall be submitted and approved before occupancy is granted:
 - a. Verification by a registered surveyor of finished block height at the time of foundation inspection;
 - b. Verification by a registered surveyor of finished grade before sod is laid; and
 - c. Such other information to be determined by the Zoning Inspector and/or Planning Commission as may be necessary to determine and provide for the enforcement of this Zoning Code.

E. **Review Procedure for Certificates of Zoning Compliance:**

1. Filing of Application. Two (2) copies of a completed application shall be filed with the Zoning Inspector, one (1) copy of which shall be returned to the owner upon approval.
2. Action by Zoning Inspector. Within thirty (30) days after acceptance of an application for a Zoning Certificate, the Zoning Inspector shall approve a Certificate of Zoning Compliance provided he/she is satisfied that the structure, building and/or premises, and the proposed methods of water supply, treatment and disposal of sanitary waste, and storm drainage measures conform with all requirements of this Zoning Code, subject to approval of the Planning Commission where the Zoning Code requires; in those cases the Planning Commission shall render a decision within thirty (30) days of holding a public hearing. Denial of an application shall be conveyed to the applicant in writing with a statement of the reasons for such denial.

3. Appeals. A denial by the Zoning Inspector of an application for a Certificate of Zoning Compliance may be appealed to the Planning Commission. A written appeal shall be filed with the Zoning Inspector within ten (10) days of receipt of notification of denial. The Planning Commission shall have a maximum of sixty (60) days for public hearing, consideration and a decision on the appeal. Denial of an appeal by the Planning Commission may be appealed to the Board of Zoning Appeals.

F. **Issuance and Expiration of Certificates of Zoning Compliance:**

1. An approved Certificate of Zoning Compliance shall be issued within ten (10) days of approval. One (1) copy of the plans submitted by the Applicant shall be returned.
2. All Zoning Certificates shall be conditional upon the commencement of work within one (1) year of issuance. If the work has not been more than fifty percent (50%) completed within one (1) years of issuance, the certificate shall expire and be revoked by the Zoning Inspector. Written notice shall be provided to the property owners together with notice that further work as described in the canceled certificate shall not proceed unless a new certificate is issued or an extension granted.

G. **Violations and Remedies:**

1. Standing to Bring Violation. If any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, demolished, maintained or used, or any land is or is proposed to be used in violation of this Zoning Code or any amendment or supplement thereto, Council, the Solicitor, or any adjacent or neighboring property owner who would be specifically damaged by such violation may, in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, demolition, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises. Said parties may institute, among any other legal means, may injunction, mandamus, abatement, or any other appropriate' action, actions, proceeding, or proceedings to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction; enlargement, change, maintenance, or use.

2. Complaints. Whenever a violation of this Zoning Code occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Inspector. Such complaint should state in full the causes and basis thereof. The Zoning Inspector shall record said complaint, immediately investigate the allegations, and take appropriate action as provided by this Zoning Code.

3. Penalties. The following penalties apply to violations of this Zoning Code:

a. The first violation of the provisions of this Zoning Code or failure to comply with any of its requirements shall constitute a misdemeanor of the fourth degree. Upon conviction thereof, any person may be fined not more than \$250.00 or imprisoned for not more than thirty (30) days or both, and in addition shall pay all costs and expenses involved in the case.

b. If the same violation occurs a second time within the same year, the offense shall constitute a misdemeanor of the third degree and upon conviction the fine shall be not more than \$500.00 or imprisonment for not more than sixty (60) days or both, and in addition the offender shall pay all costs and expenses involved in the case. If the same violation occurs a third time within the same year, the offense shall constitute a misdemeanor of the second degree and upon conviction the fine shall be not more than \$750.00 or imprisonment for not more than ninety (90) days or both, and in addition the offender shall pay all costs and expenses involved in the case.

c. Each day any such violation continues after receipt of a violation notice shall constitute a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains, such violation, may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violations.

H. **Failure to Act**: The failure of any Commission, not including Council, to act on an application before such Commission within the prescribed time-frame, excluding the continuation of a public meeting or hearing, shall constitute approval of such application. This shall not apply in cases where an applicant has chosen to indefinitely table an application or has requested an extension of such application.

SECTION XXV: ADMINISTRATION

A. **Planning and Zoning Commission**: The Planning and Zoning Commission (alternatively referred to as the Planning Commission or Commission) of the Village of Bolivar shall be comprised of the following members, with terms described: The Mayor during his/her tenure in office; a member of Village Council, appointed by the Mayor with the approval of Council to serve until such time as the member is no longer a member of Council; and three (3) citizens of the Village, each having a term of six (6) years. The Mayor shall designate the name of the citizens serving on the Planning and Zoning Commission.

B. **Proceedings of the Planning and Zoning Commission**: The Planning Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of the Zoning Code. Regular meetings shall be held on the first Thursday of the month in the evening and at such other times as the Commission may determine. The Commission shall have the power to cancel scheduled meetings when deemed appropriate. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be filed with the Village.

C. **Powers and Duties of the Planning Commission**:

1. The Planning Commission shall be authorized to carry out all powers and duties prescribed by the Ohio Revised Code and the Zoning Code.
2. In addition to any powers granted by the above, the Commission shall have the following duties:
 - a. Review all proposed amendments to the Zoning Code and make recommendations to Council;
 - b. Hear and decide where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Inspector;

c. Authorize such variances from the terms of the Zoning Code as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of the Zoning Code will result in unnecessary hardship, and that the spirit of the Zoning Code shall be observed and substantial justice done;

d. Hear any request for rezoning or other legislative action and make a recommendation to Council for action.

D. **Interpretation:** It is the intent of this Zoning Code that all questions of interpretation and enforcement shall be first presented to the Planning and Zoning Commission, and that recourse from the decisions of the Planning and Zoning Commission shall be to the Board of Zoning Appeals and/or Council, as applicable. Recourse from the Board of Zoning Appeals and/or Council shall be the Tuscarawas County Court of Common Pleas as provided under the Ohio Revised Code.

E. **Board of Zoning Appeals:**

1. Establishment. It is hereby established a Board of Zoning Appeals (alternatively referred to as the Board), which shall be made up of the members of the Village Council. The members of the Board of Zoning Appeals shall serve without compensation.

2. Powers of the Board.

a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning laws or any amendments thereto.

b. To authorize, upon appeal, in specific cases, such variance from the terms of the zoning ordinance as will not be contrary to the public interest, where owing

to special conditions a literal enforcement of the provisions of the zoning ordinance or any amendments thereto will result in unnecessary hardship, and so that the spirit of the zoning ordinance shall be observed and substantial justice done.

c. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Inspector or Planning Commission.

3. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of the law and the Zoning Code and amendments thereto, reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination on appeal, and to that end shall have the power of the officer from whom the appeal is taken.
4. The Board shall organize and adopt rules in accordance with the provisions of the Zoning Code. Meetings of the Board shall be held at the call of the Chairman, who shall be the President of Council, and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board of Zoning appeals shall be open to the public, except deliberation sessions kept private under the Ohio Sunshine Laws.
5. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. The Board shall also issue written decisions for each decision that is made. All of these documents shall be public record.
6. Appeals to the Board may be taken by any person aggrieved or by an officer of the Village of Bolivar affected by any decision of the administrative officer. Such appeal shall be taken within twenty (20) days after the decision by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the ground thereof. The officer from whom the appeal is taken shall forthwith transcript to the Board all the papers constituting the record upon which the action of appeals was taken.

7. The Board shall fix a reasonable time for the public hearing of the appeal, and must give ten (10) days' notice to the parties in interest, as well as at least ten (10) days' notice in a newspaper of general circulation in the Village. At the hearing, any party may appear in person or by attorney.
8. The Board must reach a decision within thirty (30) days after the public hearing.
9. Any person adversely affected by decision of a Board of Zoning Appeals may appeal to the Court of Common Pleas of Tuscarawas County.

F. **Rezoning Procedure:**

1. The provisions of this Zoning Code or Zoning Map may be amended, supplemented, changed or repealed. Amendments may be initiated in one of three (3) ways:
 - a. By adoption of a motion by the Planning and Zoning Commission.
 - b. By adoption of a resolution by Council.
 - c. By filing of an application by one or more owners or lessees of property within the area proposed to be changed or affected by amendments of provisions of this Zoning Code.
2. Written application including all supporting materials for amendment of this Zoning Code initiated by property owner(s) or lessee(s) shall be submitted to the Planning

Commission. This process is separate from the requirements of Planned Districts. The application for amendment shall contain at least the following information:

- a. Name, address, and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s).
- b. A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.
- c. The proposed amendment to the Zoning Code, the proposed use and the proposed zoning district of the property(s).
- d. The present use and present zoning district of the property(s).
- e. A list of all property owners within, contiguous to, and directly across the street from the property(s) in question. The list of addresses may correspond to the County Auditor's current tax list.
- f. A statement of the relationship of proposed change or amendment to the general welfare of the community, to appropriate plans for the area, and to the changed or changing conditions behind the request to rezone.
- g. A fee of \$50.00, plus the costs of advertising, review, publishing and reporting of the application, payable to the General Fund.
- h. A plot plan to show:

i. Boundaries and dimensions of the lot and the size and location of all proposed and existing structures.

ii. The proposed use of all parts of the lot and structures.

iii. Traffic access, traffic circulation, existing and proposed utilities, parking, lighting and illumination, landscaping, signs, and other such information relevant to the proposed use.

iv. Such additional information as may be required by this Zoning Code and/or requested by the Planning Commission and/or the Zoning Inspector to review the application.

i. Any deed restrictions, easements, covenants and encumbrances to be used to control the use, development and maintenance of land, and proposed uses, shall be fully denoted by text and map.

j. At the discretion of the Zoning Inspector, an engineer's estimate of utility needs of the proposed use of the area being considered for rezoning, to include sewer, water, and refuse demand may be required. In addition, an engineer's estimate of potential traffic generation for the proposed uses and measures proposed by the applicant to mitigate the impacts resulting from said generation may be required by the Planning Commission.

k. For all developments over twenty-five (25) acres, and/or for commercial and industrial developments over 10,000 square feet and/or for any development that requires direct access to a major thoroughfare and/or for any development that is not contiguous with existing water and sewer, a fiscal/economic impact study will be required to determine if the development will require immediate or

short-term expenditures on the part of the municipality in terms of infrastructure and/or support services.

3. **Criteria for Review.** All rezoning activities must be consistent with the adopted comprehensive plan. The Planning Commission shall, at the minimum, consider the following factors in the review of the application:

a. Compatibility of the proposed amendment to adjacent land use, adjacent zoning, and appropriate plans for the area, including but not limited to the comprehensive plan for the Village.

b. Relationship of the proposed amendment to access and traffic flow and utility services, including sanitary sewer, water, and storm drainage, as outlined in the transportation thoroughfare plan, comprehensive plan and/or other adopted plans for the area.

c. Relationship of the proposed amendment to the public health, safety, convenience, comfort, prosperity and general welfare, including impact on infrastructure and municipal services.

d. Relationship of the proposed use to the adequacy of available services and to general expansion plans and planned capital improvements.

4. **Review Procedure.**

a. **Filing and Acceptance of Application.** Six (6) copies of a completed application shall be filed with the Planning Commission at least thirty-five (35) days prior to a regularly scheduled meeting of the Planning Commission. Prior to accepting such application, the Zoning Inspector shall review the submittal and

determine whether such application is complete and meets all submittal requirements. Failure to submit a complete application, as determined by the Zoning Inspector, shall result in a refusal of acceptance.

b. Public Hearing. The application, if accepted, will be held at the next regularly scheduled public hearing. However, nothing in this section shall prevent the Commission from granting a continuance of the public hearing, or from scheduling a special session of Planning Commission to hear the matter.

c. Public Notice for Hearing. Notice shall be given at least ten (10) days prior to a scheduled public hearing in a newspaper of general circulation in the Village. Such notice shall include time and place of the public hearing, nature of the proposed amendment, and a statement that after the conclusion of such public hearing the matter will be referred to Council for further determination.

d. Notice to Property Owners. Written notice of the hearing shall be mailed by the Village at least ten (10) days prior to the date of a scheduled public hearing to all property owners within, contiguous to, or directly across the street from such area proposed to be rezoned or redistricted. The notice shall correspond to subsection (c) hereof in content.

e. Action by Planning and Zoning Commission. Within thirty (30) days of the public hearing, the Planning Commission shall review the application and forward one of the following recommendations to Council:

i. Recommend amendment be granted as requested.

ii. Recommend a modification of amendment.

iii. Recommend amendment not be granted.

f. Public Hearing of the Council. Upon receipt of such recommendation, Council shall schedule a public hearing within sixty (60) days of said receipt. Nothing in this section shall prevent the Council from continuing a public hearing if it deems necessary.

g. Public Notice for Council Hearing. Notice shall be given at least thirty (30) days prior to a scheduled public hearing in a newspaper of general circulation in the Village. Such notice shall include time and place of the public hearing, nature of the proposed amendment, and a summary of the Planning Commission's recommendation.

h. Notice to Property Owners of Council Hearing. Written notice of the hearing shall be mailed by the Village at least thirty (30) days prior to the date of the public hearing to all property owners within, contiguous to, or directly across the street from such area proposed to be rezoned or redistricted as listed. Notice shall correspond to subsection (g) hereof in content. The failure of delivery of such notice shall not invalidate any such ordinance, measure or regulation.

i. Action by Council. Within thirty (30) days after public hearing, Council shall adopt or deny the recommendation of Planning Commission or adopt a modification thereof. An application for amending this Zoning Code that has been disapproved by Council shall be resubmitted to the Village no sooner than one (1) year of the date of such disapproval by Council.

G. **Procedures and Requirements for Variances:**

1. The Planning Commission may authorize in specific cases such variance from the terms of the Zoning Code as will not be contrary to the public interest where, owing to special

conditions, a literal enforcement of the provisions of the Zoning Code would result in unnecessary hardship.

2. Requirements for Variance. A variance from the terms of the Zoning Ordinance shall not be granted by the Planning Commission unless and until a written application for a variance is submitted to the Zoning Inspector and the Planning Commission containing:

a. Name, address, and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s).

b. A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.

c. The nature of the variance required including what provisions of the Zoning Code are affected.

d. A statement pertaining to and explaining the relation of the variance(s) requested to the criteria for approval as listed under subsection 3 hereof.

e. A list of all property owners within, contiguous to, and directly across the street from the property(s) in question. The list of addresses may correspond to the County Auditor's current tax list.

f. A plot plan to show:

i. Boundaries and dimensions of the property and the size and location of all proposed and existing structures.

- ii. The nature of the special conditions or circumstances.
- iii. The proposed use of all parts of the lot and structures.
- iv. The use of land and location of structures on adjacent properties.
- v. Such additional information as may be required by this Zoning Code and/or requested by the Commission and/or the Zoning Inspector to review the application.

g. A fee of \$50.00, plus the cost of advertising, review, publishing and reporting of the application, payable to the General Fund.

3. Criteria for Approval. All relevant factors including but not limited to the following considerations shall be examined in the review, public hearing, and approval of an application for a variance:

a. That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.

b. That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.

c. That the special conditions and circumstances do not result from the actions of the applicant.

d. That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.

e. That the granting of the variance will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

f. That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.

g. That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.

4. Review Procedure.

a. Filing of Application. Six (6) copies of a completed application shall be filed with the Planning Commission at least thirty days (30) days prior to a regularly scheduled meeting of the Planning Commission. Prior to accepting such application, the Zoning Inspector shall review the submittal and determine whether such application is complete and meets all submittal requirements. Failure to submit a complete application, as determined by the Zoning Inspector, shall result in a refusal of acceptance.

b. Public Hearing. The application shall be heard at the next regular session of the Planning Commission. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing or from scheduling a special session of Planning Commission to hear the application.

c. Public Notice for Hearing. Notice shall be given at least ten (10) days prior to a scheduled public hearing in a newspaper of general circulation in the Village. Such notice shall include the time and place of the public hearing and the nature of the proposed variance(s).

d. Notice to Property Owners. Written notice of the hearing shall be mailed by the Village at least ten (10) days prior to the date of a scheduled public hearing to all adjoining property owners. The notice shall correspond to subsection (c) hereof in content.

e. Procedure at Hearing. Within thirty (30) days of the public hearing, the Planning Commission shall review the application and render one of the following decisions:

i. Approval of variance(s) as requested.

ii. Approval of variance(s) with modifications.

iii. Disapproval of variance(s).

f. The Commission shall apply criteria in subsection (3) hereof in reaching its determination. In approving a variance(s), the Commission may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which the variance is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed herein. The Commission's determination in taking action on a requested variance shall be accompanied by findings of fact and a statement of the reasons for the decision reached.

5. Issuance of Certificate. Upon approval of the Planning Commission or upon appeal and approval by the Board, and with such conditions attached by either body as may be necessary to secure the objectives of this Zoning Code, the Zoning Inspector shall issue a Certificate of Zoning Compliance for all approved variances to the applicant within ten (10) days of approval.

6. Appeal. Whoever is aggrieved or affected by the decision of the Commission involving an application for a variance(s) shall have the right to file an appeal with the Board of Zoning Appeals. The appeal shall be filed with the Village Clerk no later than ten (10) days after the decision of the Commission. The Board shall have sixty (60) days for consideration, public hearing, and a decision on the appeal. In reaching a determination on a requested variance appeal to Board, the applicable portions of subsection (3) hereof shall apply

H. **Procedures and Requirements for Conditional Uses:**

1. Power to Approve Conditional Uses. The Board of Zoning Appeals shall have the power to hear and decide, in accordance with the provisions of this Zoning Ordinance, applications for Conditional Uses. In authorizing a conditional use, the Board may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those considerations expressly stipulated in the Zoning Code for the particular conditional use or special exception as the Board may deem necessary for the protection of adjacent properties and the public interest.

2. Application. An application for a conditional use permit shall be filed with the Zoning Inspector by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:
 - a. Name, address and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s).

- b. A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.

- c. A description of existing use, current zoning district, and proposed conditional use.

- d. A list of all property owners within, contiguous to, and directly across the street from the property(s) in question. The list of addresses may correspond to the County Auditor's current tax list.

- e. A statement of the relationship of the proposed use to the general welfare of the community, to appropriate plans for the area, and to the changed or changing conditions behind the request.

- f. A statement of the relationship of the proposed use to adjacent land use in terms of traffic, parking, noise, and other potential nuisances and general compatibility.

- g. A plot plan to show:
 - i. Boundaries and dimensions of the lot and the size and location of all proposed and existing structures.

 - ii. Traffic access, traffic circulation, existing and proposed utilities, parking, lighting and illumination, landscaping, signs, and other such information relevant to the proposed use.

iii. Such additional information as may be required by this Zoning Code and/or requested by the Board and/or Zoning Inspector to review the application.

h. A fee of \$50.00, plus the cost of advertising, review, publishing and reporting of the application, payable to the General Fund.

3. Criteria for Approval. In determining whether to grant a request for a conditional use for property, the Board shall consider effect that the proposed use would have on the health, safety and welfare of the Village of Bolivar and its residents, including, but not limited to the following factors:

a. The effect that the location and size of the proposed use, and the nature and intensity of the operations involved or conducted in connection with the proposed use, will have on the general character of the existing neighborhood;

b. The effect that the location, size, nature and intensity of the operations contemplated by the proposed use will have upon pedestrian and vehicular traffic in the immediate and surrounding neighborhood;

c. Whether the location, physical properties, and nature of the proposed use are such so as to interfere with the use and development of adjacent land or buildings, or impair the value thereof; and

d. Whether the location, physical properties, and nature of the proposed use are such so as to subject nearby residential dwellings to hazardous or dangerous materials, fumes, or other byproducts of the proposed use.

4. Hearing for a Conditional Use Permit. The Board shall hold one (1) public hearing, to review, consider, and approve, approve with conditions, or disapprove an application. Notice of said hearing shall be given at least ten (10) days prior to a scheduled public

hearing in a newspaper of general circulation in the Village. Such notice shall include the time and place of the public hearing and the nature of the proposed variance(s). Written notice of the hearing shall also be mailed by the Village at least ten (10) days prior to the date of a scheduled public hearing to all adjoining property owners.

5. Action by the Board. The Board shall make a decision on a conditional use application within thirty (30) days of the public hearing. The Board is entitled to hold deliberation sessions as the Board deems necessary to discuss the application. The Board may take the following actions:
 - a. Approval of conditional use as requested.
 - b. Approval of conditional use with conditions.
 - c. Disapproval of conditional use.
6. Imposing Conditions on Conditional Use Permits. The Board may impose conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this Zoning Code, upon the premises benefited by a conditional use permit, as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions shall be expressly set forth in the decision granting the conditional use. Violation of any such condition or limitation shall be a violation of this Zoning Code, and shall constitute grounds for revocation of the conditional use permit.
7. Modifications to Conditional Uses. Any material change in use or operation or intensification of a conditional use that alters the essential character or operation of the use in a way not intended at the time the conditional use was granted, as evidenced by the record or language of the Zoning Code, shall require a new conditional use permit. The

property owner/operator or his authorized representative shall apply for such conditional use permit prior to any modification of the use of property.

8. Revocation of Conditional Use Permit. A conditional use permit may be revoked if the established conditions for approval are violated.

I. **Procedures and Requirements for Lot Splits:**

1. The Council for the Village of Bolivar may authorize in specific cases a lot split of any lots located within the Village of Bolivar as will not be contrary to the public interest and where the lot split shall not cause further violations of the Zoning Code, such as the requirements for setbacks, etc.

2. Requirements for Lot Split. A lot split shall not be granted unless and until a written application for a lot split is submitted, along with a fee of \$50.00, to the Zoning Inspector and the Planning Commission containing:

- a. Name, address, and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s).
- b. A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.
- c. The nature of the lot split requested.
- d. A plot plan to show:
 - i. Boundaries and dimensions of the property and the size and location of all proposed and existing structures.

- ii. The location of the new property boundaries after the proposed split.
- iii. The proposed use of all parts of the lot and structures.
- iv. The use of land and location of structures on adjacent properties.
- v. Such additional information as may be required by this Zoning Code and/or requested by the Commission and/or the Zoning Inspector to review the application.

3. Hearing and Recommendation of the Planning Commission. Upon receipt of the application for a lot split, the Planning Commission shall review and discuss the application at their next regularly scheduled zoning meeting. Notice of this meeting shall be given to the applicant, who shall have the opportunity to present their case to the Planning Commission at said meeting. Upon the Planning Commission's review and discussion of the application, the Planning Commission shall make a recommendation to the Village Council to approve or deny the lot split.

4. Hearing and Decision of the Village Council. Upon the Planning Commission's review of the lot split application, the Planning Commission shall submit the application to the Village Council with its recommendation. The Village Council shall review the application and shall approve or deny the lot split via ordinance.

J. **Zoning Inspector**: The position of Zoning Inspector is hereby created. The Zoning Inspector shall be appointed by the Mayor and shall receive such compensation as the Village Council may provide. The Zoning Inspector shall be responsible for issuing building permits, stop work orders, inspecting and citing any violations of this Zoning Code, and shall keep all records of all applications for building permits and the action taken therein.

1. Requirements for the Position of Zoning Inspector. The following requirements apply to any candidate for the position of Zoning Inspector:

- a. Twenty-one (21) years or older and not convicted of a felony.
- b. Thorough knowledge of the Zoning Code and other ordinances and regulations related to building and zoning.
- c. Ability to type, compose letters of correspondence, and keep good records and money accounts.
- d. Proficient in mathematical skills
- e. Must be able to be bonded by the Village

2. Duties of the Zoning Inspector. The Zoning Inspector shall have the following specific duties:

- a. Review all applications for and issue Building Certificates.
- b. Review all applications for variances, rezoning, subdivision approvals, and conditional uses for necessary requirements and forward them to the Planning Commission.
- c. Verify location of building lots.

- d. Act as liaison between citizens and the Planning Commission and Board of Zoning Appeals and help schedule hearings.

- e. Prepare and submit annual report of all permits, fees, and other activities of the office.

- f. Examine building plans and specifications for compliance with the Zoning Code.

- g. Inspect sites for practicability of plans on both new construction and building alterations.

- h. Keep records and reports of all inspections.

- i. Notify property owners of violations of weed, grass, and tree ordinances.

- j. Stop Work Orders. If the Zoning Inspector finds that any of the provisions of this Zoning Code are being violated, the Zoning Inspector shall notify in writing, with a STOP WORK ORDER, the person or persons responsible for such violations, indicating the nature of the violation and order the action necessary to correct such violation.

- k. Enforce the Zoning Code. In the event that a party fails to abide by the stop work order or remedy a zoning violation, the Zoning Inspector shall be required to contact the Solicitor for the Village of Bolivar who will prepare the appropriate complaint to be filed against the proper party. The Zoning Inspector will be required to sign the complaint which will be notarized by the Solicitor and thereafter be filed by the Solicitor with the appropriate court.

l. Illegal Use of Land. The Zoning Inspector shall order discontinuance of illegal use of land, building, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by the Zoning Code to ensure the compliance with or to prevent violation of its provisions.

m. Certificate of Zoning Compliance. To issue a Certificate of Zoning Compliance when these regulations have been followed or to refuse to issue the same in the event of noncompliance.

n. Collection of Fees. To collect the designated fees as set forth in this Zoning Ordinance for Certificate of Zoning Compliance, application for amendment or changes, appeal and conditional use.

o. Any other duties within the scope of this Zoning Code, and any other duties assigned by the Mayor and/or Council.

K. **Procedures for Conflicts of Interest:**

1. In the event that a member of the Planning Commission or the Board of Zoning Appeals has a conflict of interest with any matter, said member shall immediately notify the remaining members of the Planning Commission or Board and shall abstain from voting in the matter to which the conflict arises.
2. In the event that the Zoning Inspector has a conflict of interest with any matter within the course of his or her duties, the Zoning Inspector shall immediately notify the Planning Commission of the conflict and shall not issue any permits, variances, or otherwise engage in the position of Zoning Inspector as it pertains to the conflict of interest. The President of the Planning Commission shall act as the Special Zoning Inspector and

perform all duties and functions of the Zoning Inspector as to the ease in which the conflict of interest arises. This shall in no way affect the powers and duties of the Zoning Inspector as to all other matters not relative to the conflict of interest.

Fee Schedule for Zoning Permits and Applications

ALL FEES ARE NON-REFUNDABLE

1. Site Plans Approval Application: \$20.00 per \$10,000.00 of project cost
2. Storage Building Permit: \$20.00 per permit
3. Fence Permit: \$20.00 per permit
4. Sign Permit: \$20.00
5. Oil and Gas Well Permit: \$1,000.00
6. Building Permits: \$20.00 per \$10,000.00 of project cost
7. Certificate of Zoning Compliance: \$20.00 per \$10,000.00 of project cost
8. Rezoning Application: \$50.00, plus the costs of advertising, review, publishing and reporting of the application
9. Variance Application: \$50.00, plus the costs of advertising, review, publishing and reporting of the application
10. Conditional Use Application: \$50.00, plus the costs of advertising, review, publishing and reporting of the application
11. Lot Split Application: \$50.00, plus the costs of advertising, review, publishing and reporting of the application

LIST OF REVISIONS

Edit Section XVIII, Parking and Loading Regulations (O-11-2020) passed March 2, 2020