

VILLAGE OF BUTLER
ZONING ORDINANCE

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ORDINANCE 81

AN ORDINANCE GOVERNING THE VILLAGE OF BUTLER, OHIO TO DIVIDE THE VILLAGE INTO ZONING DISTRICTS AND TO REGULATE AND RESTRICT THE USE OF LAND AND TO REGULATE THE SETBACK, AREA, HEIGHT, AND BULK OF BUILDINGS WITHIN SUCH DISTRICTS AND TO PROVIDE FOR THE ADMINISTRATION AND ENFORCEMENT OF THE ORDINANCE AND TO REPEAL ORDINANCE 9-1-60.

WHEREAS, it is the legislative purpose of this Ordinance to provide planning standards, criteria, procedures and regulations for the use of land in the Village of Butler, Ohio in order to most effectively insure and preserve the public health, safety, convenience, comfort and general welfare of the residents of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BUTLER, OHIO:

SECTION 1. This Ordinance shall be known and may be recited as the "Village of Butler Zoning Ordinance.

SECTION 2. (A) All land in the Village within the scope of this Ordinance is placed into zoning districts as shown on the Zoning Districts Map

of the Village. This map with all notations, references and other pertinent material shown thereon shall be and is made part of this Ordinance as if fully described herein. The map shall be kept on file with the Clerk-Treasurer in the Village Hall.

SECTION 2. (B) The Zoning Districts Map shall be identified by the signatures of the Council and the Mayor, attested by the Clerk-Treasurer, under the following words:

This is to certify that this is the official Zoning Districts Map referred to in Ordinance 81 - of the Village of Butler, Ohio.

SECTION 2. (C) Whenever any change is made to any district boundary, upon approval of Council, such change shall be made on the official Zoning Districts Map.

ARTICLE I

TITLE, AUTHORIZATION AND PURPOSE

SECTION 100 TITLE

This Ordinance shall be known and may be recited as the "Village of Butler Zoning Ordinance".

SECTION 100.1 AUTHORIZATION

This Ordinance is enacted pursuant to the authority vested in this Village by Articles XVIII, Section 3, of the Ohio Constitution and is intended to exercise the broadest authority permitted by law over the use of land within the Village of Butler.

SECTION 100.2 LEGISLATIVE PURPOSE

It is the legislative purpose of this Ordinance to provide planning standards, criteria, procedures and regulations for the use of land in the Village of Butler, Ohio in order to most effectively insure and preserve the public health, safety, convenience, comfort and general welfare of the residents of the Village Of Butler.

ARTICLE II

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

SECTION 200

CONSTRUCTION OF LANGUAGE

The following rules of construction apply to the provisions of this Ordinance:

1. The particular shall control the general.
2. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
4. The phrase "used for" includes "arranged for", "designed for," "intended for," "maintained for" or "occupied for."
5. The word "and" indicates that all connected items, conditions, provisions or events shall apply.
6. The word "or" indicates that the connected items, conditions, provisions or events may apply singly or in combination.
7. The term "either/or" indicates that the connected items, conditions, provisions or events shall apply single but not in combination.
8. The word "lot" includes the word "plot."
9. Terms not herein defined shall have the meaning customarily assigned to them.
10. Compliance with the Constitution of the United States and with the State of Ohio was intended;
11. Compliance with state statutes insofar as they are mandatory was intended;
12. A just and reasonable result was intended;
13. A result feasible of execution was intended.

SECTION 200.1

DEFINITIONS

1. Accessory Building - Is a building located on property under common ownership with the principle building which is secondary in importance to the main building, including but not limited to detached garages, storage buildings, barns, shelters, and decorative structures.
- 1a. Accessory Use - Are any activities which are incidental, subordinate and customarily carried on in addition to the primary use of the premises. In residential districts this shall include activities which are in the nature of a hobby or recreation and not carried on with the intent to make a profit for the land occupant. It shall also include activities related to the occupant's employment off premises that are occasionally carried on in the

premises. The parking of any commercial tractor, commercial truck or semi-trailer in any residential or business district shall not be considered an accessory use. Such activities shall not be deemed a home occupation. Accessory uses does not include satellite television reception equipment, electricity producing windmills or amateur radio antennae. Accessory uses shall also include:

- a. Off-street loading and parking facilities and the storage of goods used, produced, or offered for sale which shall be accessory uses in business or industrial districts only and subject to all regulations of the district where located.
 - b. Garage or other casual sales or personal property shall be considered an accessory use so long as they are limited to (4) four times a year and for no longer than three (3) days each time. The advertising restrictions contained in this section shall not apply to such sales. See SECTION 500.21.
 - c. The storage of licensed motor vehicles or the parking of not more than one (1) trailer, recreational vehicle, bus or boat owned by residents of the premises only. Storage of any such items for non-residents of the premises whether or not a fee is charged, shall not be deemed as accessory use. All such items shall be stored no closer to the street than the minimum front yard setback requirements of the district.
 - d. Accessory use shall include the keeping of dogs (family, hunting), cats, or other domesticated pets, but shall not allow the keeping of exotic or dangerous animals such as, but not limited to, lions, tigers, leopards, panthers, cougars, bobcats, bears, wolves, foxes, apes, gorillas, poisonous or constrictor snakes, crocodiles, alligators or any animal deemed or specified as dangerous as per Ohio Revised Code.
 - e. The sale of fruits or vegetables grown on the premises where sold.
 - f. Any activity which is the subject of any advertising including, but not limited to newspaper, magazine, radio, television, poster, billboard, handbill, direct mailing, year book, telephone directory or other publications shall not be deemed to be an accessory use.
 - g. No zoning certificate shall be required to engage in an accessory use listed above.
2. Agriculture - Is the use of land for farming purposes including dairying, pasturage, apiculture, floriculture, horticulture, viticulture, animal and poultry husbandry, tree nursery farm and the necessary accessory uses for packing, treating, or storing of produce, provided the operations of such accessory use shall be secondary to that of the

normal agricultural activities. A use shall be classified as farming or agriculture only if it is the principal or main use of the land.

3. Alley - A minor street used primarily for vehicular service access to the back or side of property abutting on another street. Alleys have a right-of-way of twenty (20) feet or less.
4. Alteration - Any change, addition, alteration, or rearrangement in construction or type of occupancy, or change in the structural parts of a building such as walls, windows, partitions, columns, girders, or the moving from one location or position to another.
- 4a. Apartment - Is same as a "Multiple Family Dwelling".
- 4b. Arterial Thoroughfare - Cleveland Street, Elm Street, Grant Street, Main Street
5. Basement - Is a story, suitable for habitation, partially below the level of the adjoining ground. When a basement floor is less than two (2) feet below the ground level, it will be rated as the first story.
- 5a. Bed and Breakfast Operation - Is a private owner occupied dwelling wherein lodging and food is provided by the owner for compensation to transients remaining at the dwelling for less than seven consecutive nights as distinguished from a boarding house.
6. Boarding House - Is a dwelling where meals or lodging and meals are provided for compensation to two (2) or more persons.
7. Building - Is any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels or property. Building includes the area enclosed and unenclosed devoted to porches, stairways, fire escapes and fixed canopies. When a structure is separated by a fire wall, each such separated portion shall be deemed a separate building. A "building" shall not include such structures as billboards, fences, radio towers, water towers, smoke stacks, grain elevators, coal bunkers, or similar structures with interior spaces not normally accessible for human use.
- 7a. Building Height - Is the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of a mansard roof; and to the average height between eaves and the ridge line of a gable, hip, or gambrel roof. Where a building is located on sloping terrain or the side of a hill, the height may be measured from the average elevation of the finished grade at the building wall.
8. Building Setback Line - Is a line defining the minimum front, side and rear yard setback requirements in which no building or structure may be located, except as otherwise provided herein.

- 8a. Building, Principle - Is the building housing the principle activity performed on the lot.
- 9. Central Business Area - Defined on official Zoning Map.
- 9a. Church, Synagoques or Temple - Is a building or group of buildings controlled by a religious body organized to sustain public worship where persons regularly assemble primarily for religious worship.
- 9b. Club - Is an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.
- 9c. Collector Thoroughfare - Liberty Street, West Street
- 9d. Commercial Tractor - Is any motor vehicle having motive power designed or used for drawing other motor vehicles, or designed or used for drawing another motor vehicle while carrying a portion of such other motor vehicle or its load, or both.
- 9e. Commercial Truck - Is any motor vehicle designed by the manufacturer to carry a load exceeding three (3) tons.
- 9f. Commission - Is the Planning Commission of the village.
- 9g. Conditional Use - Is a use permitted within a zoning district other than a principally permitted use, requiring a conditional zoning certificate and approval of the Village Planning Commission. A conditional use is not considered to be a non-conforming use.
- 9h. Condominium - Is a building or group of buildings in which units are individually owned but the structure, common areas and facilities are owned on a proportional, undivided basis by all of the owners.
- 9i. Condominium Association - Is the community association which administers and maintains the common property and common elements of a condominium.
- 9j. Council - Is the village council of the village.
- 9k. Density - Is the number of dwelling units that can be developed on a given acre of land.
- 9l. Development - Is the construction of a new building or other structure on a lot, relocation of an existing building on another lot, or the use of open land for a new use.
- 9m. Drive-In - Is a business establishment so developed that its retail or service character is dependent on providing a driveway approach and parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

- 9n. Driveway - Is an area of a lot intended to be used by motor vehicles to travel over the lot to or from a public street.
- 9o. Dwelling - Is a building (except a manufactured home or mobile home as defined in this Ordinance) which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants and built on a site complying with the basic building codes of the State of Ohio for Industrialized Units as defined in this Resolution.
10. Dwelling, One Family - Is a dwelling consisting of one (1) dwelling unit only, separated from other dwelling units by open space.
11. Dwelling, Two Family - Is a dwelling consisting of two (2) dwelling units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.
12. Dwelling, Multiple Family - Is a dwelling consisting of three (3) or more dwelling units with varying arrangements of entrances and party walls.
- 12a. Dwelling Unit - Is space within a dwelling, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing, and toilet facilities, all used by only one (1) family and its household employees.
- 12b. Erected - Built, constructed, altered, moved upon, reconstructed, or any physical operations on the premises including excavation, fill, drainage, and the like.
- 12c. Essential Services - Is the erection, construction, alteration, or maintenance by public utilities or municipal departments, or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communications, supply or disposal systems, including poles, wires, mains, drains, sewer and water pipes, conduit, cables, fire alarm boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings for the furnishing of adequate service by such public utilities or municipal departments of commissions, or for the public health or safety or general welfare.
- 12d. Excavation - Any breaking of ground except agriculture, gardening or ground care.
13. Family - One or more persons living together as a single housekeeping unit in a dwelling unit, sharing living, cooking and sleeping facilities, as distinguished from a group occupying a rooming house, boarding house, motel or hotel.
- 13a. Fence - Is any structure composed of wood, iron, steel, shrubbery, hedges, or other material erected in such a manner and position as to enclose or partially enclose all or any part of any premises. Trellises or other structures supporting or for the purpose of supporting vines, flowers, and other

vegetation when erected in such position as to enclose all or any part of any premises shall be included within the definition of the word "fence". Structures erected other than on lot lines or in close proximity to lot lines, which have solely an ornamental purpose and which do not in fact serve the purpose of enclosing or partially enclosing premises or of separation premises from adjoining premises, shall not be included within the definition of the word "fence". See SECTION 500.8

- 13b. Firewood, Wood Stacks, ETC.: Any wood, wood stack, or other combustible material which is intended to be used for burning purposes in any fireplace, stove, boiler, furnace or similar apparatus.
- 13c. Floor Area, Gross - Is the sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior of walls or the center line of walls separating two buildings. In particular, the floor area includes: basement space; elevator shafts or stairwells; floor space for mechanical equipment, penthouses, balconies, mezzanines, enclosed porches, attic floor space providing structural head room of seven feet six inches (7'6"), open porches, terraces and breeze ways, where more than fifty (50) percent of the perimeter of such terrace, breeze way or open porch is enclosed.
- 13d. Floor Area - Minimum - For the purpose of computing the minimum allowable floor area per dwelling unit, the sum of the horizontal areas of each store of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The floor area measurement is exclusive of areas devoted to basements, unfinished attics, attached garages, breeze ways, and enclosed or unenclosed porches.
- 14. Floor Area, Usable - For the purposes of computing parking the "Usable Floor Area" is defined as that area used for or intended to be used for the sale of merchandise of services, or for use to serve patrons, clients, patients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities shall be excluded from the computation of "Usable Floor Area."
- 14a. Frontage - Is that side of a lot abutting a street; the front lot line.
- 14b. Garage - Is an accessory building or portion of a main building designed and intended primarily for the storage of vehicles or boats owned or used by the occupants of the building, but may also be used incidentally for the storage of other personal property.
- 14c. Gasoline Service Station - Is any area of land, including any structure of structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles. For the purpose of this Ordinance, there shall be deemed to be included within this

term any area or structure used or designed to be used for greasing, polishing, washing, spraying or otherwise cleaning or servicing such motor vehicles.

- 14d. Grade - Is the ground elevation established for the purpose of regulating the number of stories and height of building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by computing the average elevation of the ground for each face of the building, and taking the median of said total averages.
15. Greenbelt - A year-round planting screen six (6) feet in height.
16. Home Occupation - Is any use customarily conducted entirely within a dwelling and carried on by inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A home occupation includes, but is not limited to: barber shops, beauty shops, real estate offices and the offices of doctors and dentists.
- 16a. Industrialized Unit - Is a building unit or assembly of closed construction that is fabricated in an off-site facility, that is substantially self-sufficient as a unit or as 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 in this Ordinance.

For the purpose of this Ordinance an industrialize unit shall be considered to be a family residential dwelling provided it meets all of the following criteria:

- a. The industrialized unit is installed on a site-built permanent foundation.
- b. The industrialized unit is designed not to be moved once erected or installed on the site-built permanent foundation.
- c. The industrialized unit complies with the Ohio and/or local building codes as evidenced by appropriate Industrialized Unit Insignia Number on each unit.
- 16b. Junk - Scrap metals and wood of all kinds (except firewood), bones, rags, used bottles or cans or paper packaging, old or used machinery, tools, equipment, appliances, motor vehicles or parts thereof, used construction materials and any and all other manufactured goods which are so worn, deteriorated or obsolete so as to make them unusable in their present condition, but which may be subject to salvage or re-manufacture. The

definition of junk motor vehicle as provided by O.R.C. 4738.01(B) shall apply herein.

- 16c. Junkyard - Is any premises where junk is bought, sold, exchanged, baled, packed, disassembled, stored or handled.
- 16d. Kennel, Commercial - Is any lot or premises on which four (4) or more dogs, cats or other household pets are either permanently or temporarily boarded. Kennel shall also include any lot or premises where household pets are bred and sold.
- 16e. Loading Space - Is an off-street space or berth outside the street right-of-way line on the same lot with a building or group of buildings, for the temporary parking of a vehicle while loading or unloading merchandise or materials.
- 16f. Local Thoroughfare - All other public streets in the Village that are not specified as arterial thoroughfares or collector thoroughfares.
- 17. Lot - Is a parcel of land occupied or capable of being occupied by one or more buildings and the accessory buildings or uses customarily incidental to it, together with such yards, and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records.
- 17a. Lot Area - Is the total horizontal area within the lot lines of the lot.
- 17b. Lot, Corner - Is a lot at the point of intersection of and abutting on two or more intersecting streets.
- 17c. Lot Depth - Is the horizontal distance between the street right- of-way line and rear lot lines measured along the median between the side lot lines. Where the right-of-way depth is not established it shall be assumed to be sixty (60) feet.
- 17d. Lot Interior - Is a lot other than a corner lot.
- 18. Lot Lines - Are the lines defining the limits of a lot as described below:
 - a. Front Lot Line - In the case of an interior lot, it is that lot line separating said lot from the street. In the case of a corner lot, or double frontage lot, it is that line separating said lot from either street.
 - b. Side Lot Line - Is any lot line other than the front or rear lot line.
 - c. Rear Lot Line - Is that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than thirty (30) feet long lying farthest from the front lot line and wholly within the lot.

- 18a. Lot of Record - Is a lot the dimensions of which are recorded in a document or shown on a map on file in the office of the Recorder of Richland County, or a lot described by metes and bounds, the deed to which has been recorded in a document or on a map in the office of the Recorder of Richland County, Ohio.
19. Lot Width - Is the horizontal distance between the side lot lines, measured *between two points where the minimum building setback line intersects the side lot lines.*
- 19a. Manufactured Home - Is a building unit or assembly of closed construction that is fabricated in an off-site facility, that conforms with the federal construction and safety standards established by the Secretary of Housing and Urban Development 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. "Manufactured Home" does not qualify as a industrialized unit as defined in this Ordinance.
- 19b. Merchandise - Is all tangible personal property offered for sale, rental, or lease.
20. Minimum Building Setback Line - Is a line parallel to the street right-of-way line and at such distance from the street right-of-way line as required by the minimum front yard depth defined for each district. Where the right-of-way line has not been established it shall be assumed to be sixty (60) feet for streets and twenty (20) feet for alleys.
21. Mobile Home - Is a building unit or assembly of closed construction that is fabricated in an off-site facility that is more than thirty-five (35) body feet in length or, when erected on site, is three hundred twenty (320) or more square feet, that is built on a permanent chassis and transportable in one or more sections, and that does not qualify as a manufactured home or industrialized unit as defined in this Ordinance.
22. Mobile Home Park (Manufactured Home Park) - Is any parcel of land, ten (10) acres or greater, where ten (10) or more Mobile Homes or Manufactured Homes are parked for dwelling or sleeping purposes.
- 22a. Motel - Is a series of attached, semi-attached or detached rental units containing a bedroom, bathroom and closet space. The units shall provide for overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicle.
- 22b. Nightclub - Is a tavern which either provides live entertainment or permits dancing by patrons.
- 22c. Nonconforming Lot - Is a lot lawfully existing at the time of the enactment of this Ordinance or amendments thereto that does not conform to the lot area or width provisions of the districts in which

it is located.

- 22d. Nonconforming Structure - Is a structure or portion thereof lawfully existing at the time of the enactment of this Ordinance or amendments thereto that does not conform to the area and height provisions of the district in which it is located.
- 23. Nonconforming Use - Is a use lawfully existing at the time of the enactment of this Ordinance, or amendments thereof and which does not conform to the use provisions of the district in which it is located.
- 23a. Nursery - Is a space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building or structure used for the sale of fruits, vegetables, or Christmas trees.
- 23b. Nursing Home - Is a residential facility licensed by the State of Ohio which provides skilled nursing care to individuals who by reason of illness or physical or mental impairment require such care.
- 23c. Off-Street Parking Lot - Is a facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering and providing access for entrance and exit so as to provide for the parking of more than two (2) vehicles.
- 24. Open Space - Is any part of a lot which is in its natural state, open and unobstructed except for natural vegetation.
- 24a. Parabolic or Dish-Type Antenna - Is any structure that is a concave, circular or dish-shaped device designed for receiving communications or television signals from a satellite or a ground station. Such antenna shall be considered to be a permitted use and are subject to the requirements of Section 500.23
- 25. Parking Space - Is an area of definite length and width, exclusive of aisles and drives or entrances giving access thereto, and fully accessible for the storage of motor vehicles.
- 25a. Permanent Foundation - Is a permanent masonry, concrete, or locally approved footing or foundation, to which an industrialized unit or manufactured home may be affixed.
- 25b. Private - Use is limited to occupants or their guests.
- 25c. Private Swimming or Tennis Club - Buildings and grounds owned by a nonprofit organization used for swimming or tennis for recreational purposes by members who are invited or elected to join with the use of the facilities restricted to members and their guests and not open to the general public.
- 25d. Public Utility - Is any person, firm, corporation,

governmental agency or board or other entity other than the Village of Butler authorized to furnish and furnishing under governmental regulations to the public, electricity, gas, steam, telephone, telegraph, cable television service, transportation, water or sewerage.

- 25e. Recreational - Is the use of land for entertainment by active participation of patrons such as sporting events or games of skill.
- 25f. Recreational Vehicle - Is a vehicular portable structure designed to be used as a temporary dwelling for travel or recreation purposes and includes travel trailers, motor homes and truck campers.
- 25g. Restaurant - Is a public eating establishment in which the primary function is the preparation and serving of food for consumption on or off the premises but is not licensed by the state to sell beer or intoxicating liquor.
- 25h. Right-of-Way - Is a strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.
- 25i. Rooming House - Is a dwelling or part thereof where lodging is provided for compensation for four (4) or fewer unrelated persons where no cooking or dining facilities are provided to those persons in individual rooms or elsewhere on the premises.
- 25j. Semi-trailer - Is any vehicle of the trailer type without motive power so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by such other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under such chapters, any vehicle of the dolly type, such as a trailer dolly, designed or used for the conversion of a semitrailer into a trailer.
- 25k. Story - Is that part of a building, included between the surface of one (1) floor and the surface of the next floor above or if there is no floor above, then the ceiling next above.
- 25l. Street, Private - Is an approved right-of-way owned and maintained by the abutting property owners, or by an association of property owners, excluding off-street parking areas, driveways, and driveways to off-street parking areas.
- 26. Street, Public - Is a right-of-way which affords the principal means of vehicular access to abutting property and which has been properly dedicated or deeded for public use and accepted by the Village of Butler, Ohio.

27. Structure - Is anything constructed or erected which requires location on or below the ground, or attachment to something having a location on or below the ground.
- 27a. Swimming Pool (Recessed or Elevated) - Is a receptacle for water, or an artificial pool of water having a depth at any point of more than two (2) feet for the purpose of immersion or partial immersion therein of human beings and having a minimum size of two hundred (200) square feet; and maintained primarily for the use of owner thereof, his lessees or invitee. Any body of water contained by earth such as lakes or ponds are excluded from this definition.
- 27b. Tavern - Is an establishment open to the public which sells food and is licensed to sell beer or intoxicating liquor by the State of Ohio but does not provide live entertainment or permit dancing by patrons.
- 27c. Temporary Building or Use - Is a building or use permitted to exist during periods of construction of the principal building or use, or for special events.
28. Townhouse - Attached dwelling units with individual entrances.
- 28a. Travel Trailer - See "Recreational Vehicle".
29. Use - Is the principal purpose for which land, or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.
30. Yards - The open spaces on the same lot as the principal building, unoccupied and unobstructed from the ground upward and further defined as follows:
- a. Front Yard - Is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the street right-of-way line and the nearest point of the principal building.
 - b. Side Yard - Is an open space between the side lot line and the principal building, extending from the front yard to the rear yard, the width of which is the minimum horizontal distance from the nearest point on the side lot line to the nearest point of the principal building.
 - c. Rear Yard - Is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building.
31. Zoning Variance -
- a. Area Variance - Is defined as a variance which relates solely to area requirements. The standard to be applied is practical difficulties and whether the area zoning

requirement applied to the particular property is reasonable. Numerous factors are to be considered and are listed in Section 900.3.

- b. Use Variance - Is defined as a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Ordinance would cause undue hardship owing to circumstances unique to the individual property for which the variance is sought.

The crucial factors of a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

ARTICLE III

ESTABLISHMENT OF ZONING DISTRICTS AND MAP

SECTION 300 ESTABLISHMENT OF DISTRICTS

For the purpose of determining the regulations of land and structures as imposed by this Ordinance, corporate limits of the Village of Butler, Ohio is hereby divided into the following use districts:

- R-1 - Residential District
- R-2 - Residential District
- B-1 - Business District
- I-1 - Industrial District

SECTION 300.01 OFFICIAL ZONING DISTRICTS MAP

The boundaries of these districts and classes of districts are hereby established upon the "Official Zoning Districts Map of the Village of Butler, Ohio," and shall be exhibited in the office of the Clerk of Council, including all amendments. A copy of this map is attached hereto.

SECTION 300.02 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following the corporation boundary line shall be construed as following the corporation boundary line.
4. Boundaries indicated as following railroad tracks shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following the center line of streams, rivers or other bodies of water shall be construed to follow such center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Districts Map shall be determined by the use of a scale shown on the Map.

SECTION 300.1 ZONING OF ANNEXED AREAS

Upon the annexation of territory, the Village Planning Commission shall immediately be notified. The Commission shall recommend appropriate zoning for such territory within thirty (30) days of receipt of notice of annexation. Thereafter Council shall hold a public hearing on the recommendation and shall give at least thirty (30) days public notice. The Council shall then vote on the recommendation of the Commission to zone the property.

SECTION 300.3 ZONING OF VACATED AREAS

Wherever any street, alley or other public way is vacated by action of Village Council and in a manner authorized by law, the Zoning District adjoining each side of such street, alley or public way shall be automatically extended to the center line of such vacation and all areas included in the vacation shall then be subject to the same use, area and height regulations of the extended district.

SECTION 300.4 EXCLUSIONARY NATURE OF ORDINANCE

This Ordinance shall be deemed to be exclusionary in nature and any use of land not specifically allowed by this Ordinance in a district or in any district shall be deemed to be a use which was intentionally excluded from the district or all districts.

SECTION 300.5 DISTRICT REQUIREMENTS

All buildings and uses in any district shall be subject to the provisions of ARTICLE V, GENERAL PROVISIONS, and ARTICLE VI, GENERAL EXCEPTIONS.

ARTICLE IV

USE, AREA AND HEIGHT REGULATIONS

SECTION 400 R-1 RESIDENTIAL DISTRICT

SECTION 400.1 PURPOSE

The R-1 Residential Districts are established in recognition that sections of the Village include low density residential developments that are urban in character and contain a substantial proportion of one and two family dwellings. Among these sections of the Village is land served by centralized sewer and water, or these utilities are readily available with adequate capacity; land where the established use, character and density of development would be best maintained by these regulations; sections of the Village where the general welfare is best served by the provisions of these Districts in providing essential services and facilities at an adequate level in an efficient and economical manner without overcrowding the land.

SECTION 400.2 PERMITTED USES

1. One family dwellings
2. Two family dwellings
3. Public schools, parks and recreational facilities
4. Cemeteries which lawfully occupied land at the time of adoption of this Ordinance.
5. Accessory buildings and uses as regulated in Article V, GENERAL PROVISIONS of this Ordinance.
6. Automobile parking spaces as regulated in Article V, GENERAL PROVISIONS of this Ordinance.

SECTION 400.3 CONDITIONALLY PERMITTED USES

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use, the provisions of Article V, and subject further to the review and approval of the Village Planning Commission:

1. Churches and other buildings for the purpose of religious worship, subject to the following conditions:
 - a. Buildings of greater than the maximum height allowed in Section 404, SCHEDULE OF REGULATIONS, may be allowed provided front, side and rear yards are increased above the minimum required yard setback by one (1) foot for each one (1) foot the building exceeds the maximum height allowed.
 - b. Wherever the off-street parking area is adjacent to land developed for one family and two family residential purposes, a continuous and obscuring year-around greenbelt six (6) feet in height shall be provided along the sides of the parking area adjacent to the residential development. The greenbelt shall be further subject to the provisions of

Article V, GENERAL PROVISIONS.

- c. The proposed site shall have at least one property line abutting an arterial or collector thoroughfare or a service access road.
2. Parochial and other private elementary, intermediate schools offering courses in general education.
3. Private recreational areas, swimming pools, golf courses, tennis clubs and institutional or community recreation centers subject to the following conditions:
 - a. The proposed site for any of the uses stated above shall have at least one (1) property line abutting an arterial or collector thoroughfare, and the site shall be so planned as to provide all ingress and egress directly onto or from the arterial or collector thoroughfare.
 - b. Front, side and rear yard setback shall be at least thirty (30) feet wide and shall be landscaped in trees, shrubs and grass.
 - c. Whenever the intended use includes a swimming pool, said pool shall be provided with a protective fence six (6) feet in height measured above the level of the adjoining ground. The entry to and from the pool shall be by means of a controlled gate.
 - d. Lighting used to illuminate the intended uses of the property shall be shielded and arranged as to reflect light away from adjoining properties and public streets.
 - e. Off-street parking shall be provided as regulated in Article V, GENERAL PROVISIONS.
4. Utility and public service buildings and uses (excluding storage yards), when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity.
5. Home occupations subject to the following conditions:
 - a. Such uses shall be secondary in importance to the use of the dwelling unit for dwelling purposes.
 - b. Home occupations shall be conducted by the resident with no additional employees.
 - c. The home occupation shall be carried on entirely within the dwelling and not in an accessory building. The detached garage may be used providing the occupation does not preclude the storage of a four wheel motor vehicle in the garage.
 - d. The home occupation shall not occupy more

than thirty (30) percent of any one floor dwelling unit.

- e. No activity, materials, goods or equipment indicative of the proposed use shall be visible from any public thoroughfare or adjacent property.
 - f. For purposes of advertising, there shall be no more than one (1) sign or identification plate not to exceed four (4) square feet in area.
6. An independent mobile home may replace an existing mobile home provided that:
- a. Placement is on a permanent foundation with permanent connections to utility systems.
 - b. A complete, opaque, fire-resistant skirting is attached.
 - c. Minimum floor area shall be 700 square feet exclusive of screened enclosures and other additions.

SECTION 400.4 AREA AND BULK REQUIREMENTS

See Section 404, "SCHEDULE OF REGULATIONS, limiting the height and bulk of buildings, the minimum lot size, the maximum density permitted, and establishing minimum yard setback requirements.

SECTION 401 R-2 RESIDENTIAL DISTRICT

SECTION 401.1 PURPOSE

The R-2 Residential District is established in recognition that section of the Village include low to moderate density residential developments that are urban in character and contain a substantial proportion of one, two and multiple family dwellings. Among these sections of the Village is land served by centralized sewer and water, or these utilities are readily available with adequate capacity; land where the established use, character and density of development would be best maintained by these regulations; sections of the Village where the general welfare is best served by the provisions of this District in providing essential services and facilities at an adequate level in an efficient and economical manner without overcrowding the land.

SECTION 401.2 PERMITTED USES

- 1. One family dwellings
- 2. Two family dwellings
- 3. Townhouse dwellings provided that there will be no more than twelve (12) townhouse dwellings attached in any contiguous group.
- 4. Multiple family dwellings, two (2) stories or less subject to review and approval of a site plan by the Village Planning Commission and subject further to the following:

- a. Proposed development shall have one (1) property line abutting an arterial or collector thoroughfare or the boundary line of a B-Business or I-Industrial District.
 - b. A fifteen (15) foot wide greenbelt measured from the lot line shall be provided on those side or rear yards abutting a one family or two family residential property.
 - c. A six (6) foot high obscuring fence measured from the surface of the ground shall be provided wherever a parking lot abuts onto lot lines of a one or two family residential development. Such fence or screening devices shall not have any opening except such openings as may be required by the Fire Chief for vehicular or emergency access to the proposed development.
- 5. Public schools, parks and recreational facilities.
 - 6. Accessory buildings and uses as regulated in Article V, GENERAL PROVISIONS of this Ordinance.
 - 7. Automobile parking spaces as regulated in Article V, GENERAL PROVISIONS of this Ordinance.

SECTION 401.3

CONDITIONALLY PERMITTED USES

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use, the provision of Article V, and subject further to the review and approval of the Village Planning Commission:

- 1. Churches and other buildings for the purpose of religious worship, subject to the following conditions:
 - a. Building of greater than the maximum height allowed in Section 404, SCHEDULE OF REGULATIONS, may be allowed provided front, rear and side yards are increased above the minimum required yard setback by one (1) foot for each one (1) foot the building exceeds the maximum height allowed.
 - b. Wherever the off-street parking area is adjacent to land developed for one family and two family residential purposes, a continuous and obscuring year-around greenbelt six (6) feet in height shall be provided along the sides of the parking area adjacent to the residential development. The greenbelt shall be further subject to the provisions of Article V, GENERAL PROVISIONS.
 - c. The proposed site shall have at least one property line abutting an arterial or collector thoroughfare or a service access road.
- 2. Parochial and other private elementary, intermediate schools offering courses in general education.
- 3. Private recreational areas, swimming pools, golf

courses, tennis clubs and institutional or community recreation centers subject to the following conditions:

- a. The proposed site for any of the uses stated above shall have at least one (1) property line abutting an arterial or collector thoroughfare, and the site shall be so planned as to provide all ingress and egress directly onto or from the arterial or collector thoroughfare.
 - b. Front, side and rear yard setback shall be at least thirty (30) feet wide and shall be landscaped in trees, shrubs and grass.
 - c. Whenever the intended use includes a swimming pool, said pool shall be provided with a protective fence six (6) feet in height measured above the level of the adjoining ground. The entry to and from the pool shall be by means of a controlled gate.
 - d. Lighting used to illuminate the intended uses of the property shall be shielded and arranged as to reflect light away from adjoining properties and public streets.
 - e. Off-street parking shall be provided as regulated in Article V, GENERAL PROVISIONS.
4. Utility and public service buildings and uses (excluding storage yards), when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity.
5. Home occupations subject to the following conditions:
- a. Such uses shall be secondary in importance to the use of the dwelling unit for dwelling purposes.
 - b. Home occupations shall be conducted by the resident with no additional employees.
 - c. The home occupation shall be carried on entirely within the dwelling and not in an accessory building. The garage may be used providing the occupation does not preclude the storage of the number of vehicles for which the garage was designed.
 - d. The home occupation shall not occupy more than thirty (30) percent of any one floor dwelling unit.
 - e. No activity, materials, goods or equipment indicative of the proposed use shall be visible from any public thoroughfare or adjacent property.
 - f. For purposes of advertising, there shall be no more than one (1) sign or identification plate not to exceed four (4) square feet in area.

- g. There shall be no more than one (1) home occupation per dwelling unit.
6. Mobile Home Park development developed in accordance with the following regulations and subject further to the review and approval of a site plan by the Village Planning Commission:
- a. The Mobile Home Park shall provide a six (6) foot high vertical screen inside a twelve (12) foot wide greenbelt on those side or rear yards of the Mobile Home Park which abut onto an "R", "B", or "I" District. The obscuring screen shall provide a continuous, year-around screen.
 - b. Access from Mobile Home Parks to the nearest public thoroughfare shall be by means of a public right-of-way of not less than sixty (60) feet in width. No access shall be permitted through an "R" Residential District.
 - c. The Mobile Home Park shall further comply with any other county and state health department regulations, and any other Ordinances of the Village of Butler.
 - d. Minimum acreage for a mobile home park shall be ten (10) acres.
 - e. The Mobile Home Park development shall comply with the requirements of the Ohio Administrative Code Chapter 3701 promulgated by the Ohio Public Health Council in accordance with Chapter 3733 of the Ohio Revised Code.

SECTION 401.4 AREA AND BULK REQUIREMENTS

See Section 404 SCHEDULE OF REGULATIONS, limiting the height and bulk of buildings, the minimum lot size, the maximum density permitted and establishing minimum yard setback requirements.

SECTION 402 B-1 BUSINESS DISTRICT

SECTION 402.1 PURPOSE

The B-1 Business District is intended to encourage the grouping of small individual retail establishments to promote convenience in serving the daily needs of persons living in adjoining areas. These groups of establishments generally occupy sites that are in proximity to the residential population to be served. The commercial establishments allowed in the B-1 Business District will be closely associated with residential, religious and educational land uses at the neighborhood level.

SECTION 402.2 PERMITTED USES

- 1. The following retail, personal service and business and professional office uses providing a six (6) foot high obscuring fence and obscuring greenbelt at least twelve (12) feet in width is provided on those side and rear yards abutting an R-Residential District.

- a. Retail stores primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods including but not limited to:

- Hardware stores
- Grocery stores
- Meat and Fish markets
- Candy, Nut and Confectionery stores
- Dairy Products stores
- Retail Bakeries
- Drug and Proprietary stores
- Liquor stores
- Florists
- Toy and Gift stores
- Clothing stores
- Furniture stores
- Sporting Goods stores
- Jewelry stores
- Book and Stationary stores
- Camera and Photographic Supply stores
- Household Appliance stores
- Radio, Television, and Music stores
- Repair shops

- b. Personal Service Establishments:

- Eating and drinking places (excluding those in the nature of a drive-in)
- Self-service laundries
- Beauty shops
- Barber shops
- Shoe repair shops, shoe shine shops
- Pressing, Alteration and Garment repair
- Photographic studios

- c. Business and Professional Offices:

- Commercial and Stock Savings Banks
- Credit Agencies
- Personal Credit Unions
- Insurance Agents, Brokers and Service
- Real Estate Agents and Brokers
- Offices of Physicians and Surgeons
- Offices of Chiropractors
- Legal Services

- 2. Accessory buildings and uses as regulated in Article V, GENERAL PROVISIONS of this Ordinance.
- 3. Parking and loading as regulated in Article V, GENERAL PROVISIONS of this Ordinance.

SECTION 402.3

CONDITIONALLY PERMITTED USES

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use, the provision of Article V, and subject further to the review and approval of the Village Planning Commission:

- 1. Gasoline service stations subject to the following conditions:
 - a. Such stations shall be used for the sale of gasoline, oil and minor accessories, and minor engine repair only. No major repair

work will be done, including vehicle body repair, painting, upholstering, auto glass work and such other activities where the external effects of the activity could adversely extend beyond the property line.

- b. Curb cuts for ingress and egress shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than one hundred (100) feet from a street intersection (measured from the intersection of the curb lines) or from adjacent residential districts.
 - c. The minimum lot area shall be twelve thousand (12,000) square feet, with access drives so arranged that ample space is available for motor vehicles which are required to wait.
 - d. The minimum lot width shall be at least one hundred (100) feet and pump islands shall be set back at least fifteen (15) feet (measured from the street right-of-way line). All buildings and other structures shall have a front yard setback of fifty (50) feet from the street right-of-way line.
 - e. Underground storage gasoline tanks shall be located not less than fifty (50) feet from any R-Residential District.
 - f. Construction shall begin within one (1) year from the date of approval by the Village Planning Commission.
 - g. All lighting shall be shielded from all adjacent properties.
 - h. Gasoline service stations shall provide an obscuring fence at least six (6) foot in height and a greenbelt at least twelve (12) feet in width is provided on those side and rear lot lines abutting an R-Residential District.
2. Drive-in restaurants subject to site plan approval by the Village Planning Commission, and further subject to the following:
- a. A six (6) foot high obscuring fence or year-around greenbelt shall be provided on those sides and rear lot lines abutting an R-Residential District.
 - b. All lighting shall be shielded from adjacent R-Residential Districts.
3. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, excluding storage yards.
4. Sexually Oriented Businesses
- a. As used in this section the following definitions shall apply:

- (1) Sexually Oriented Business - Is an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
- (2) Adult Arcade - Is any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
- (3) Adult Bookstore or Adult Video Store - Is a commercial establishment which utilized twenty-five percent (25%) or more of its retail selling area for the purpose of sale or rental for any form of consideration any one or more of the following:
 - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas," or
 - (b) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."
- (4) Adult Cabaret - Is a nightclub, bar, restaurant, or similar commercial establishment which regularly features:
 - (a) Persons who appear in a state of nudity; or
 - (b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or
 - (c) Film, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or specified anatomical areas."

- (5) Adult Motion Pictures Theater - Is a commercial establishment where, for any form of consideration, films, motions pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (6) Adult Motel - Is a hotel, motel or similar commercial establishment which:
- (a) Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproduction which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
 - (b) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
 - (c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- (7) Adult Theater - Is a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas."
- (8) Escort Agency - Is a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.
- (9) Nude Model Studio - Is any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
- (10) Sexual Encounter Center - Is a business or commercial enterprise that, as one

of its primary business purposes,
offers for any form of consideration:

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(11) Specified Anatomical Areas - Is human genitals in a state of sexual arousal.

(12) Specified Sexual Activities - Is and includes any of the following:

- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (c) Masturbation, actual or simulated; or
- (d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c)

b. Only within the B-1 Business District shall sexually oriented businesses be permitted and only if the Village Planning Commission determines that each of the following conditions have been met:

- (1) That the parcel of land upon which the sexually oriented business is located at a minimum of five hundred (500) feet from the nearest parcel of land containing a school, church, funeral home or residence.
- (2) That the parcel of land upon which the sexually oriented business is located is a minimum of five hundred (500) feet from any other parcel of land containing a sexually oriented business.
- (3) Nothing in this Section shall be deemed to amend Chapter 666, Sex Related Offenses of the Codified Ordinances or otherwise made any conduct legal which is illegal under that Chapter.

SECTION 402.4 AREA AND BULK REQUIREMENTS

See Section 404, SCHEDULE OF REGULATIONS, limiting the height and bulk of buildings, the minimum lot size, the

maximum density permitted, and establishing minimum yard setback requirements.

SECTION 403 I-1 INDUSTRIAL DISTRICT

SECTION 403.1 PERMITTED USES

1. Activities involving compounding, processing manufacturing or assembling of materials or parts provided that the emission of smoke, dust fumes, vibrations, odor and noise is confined to the premises or held to minimum levels affecting adjoining residential areas.
2. Wholesaling, warehousing, and distribution facilities.
3. Accessory buildings and uses as regulated in Article V, GENERAL PROVISIONS, of this Ordinance.
4. Parking and loading as regulated in Article V, GENERAL PROVISIONS, of this Ordinance.
5. Signs as regulated in Article V, GENERAL PROVISIONS, of this Ordinance.

SECTION 403.2 GENERAL CONDITIONS

1. All outdoor storage areas shall be enclosed by an obscuring device at least six (6) feet in height but of sufficient height to screen all material store.
2. All industrial uses shall be located along major thoroughfares, railroads, and/or in an Industrial Park.

SECTION 403.3 CONDITIONALLY PERMITTED USES

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use, the provisions of Article V, and subject further to the review and approval of the Village Planning Commission:

1. A wireless telecommunication facility consisting of some or all of the following: a tower, an equipment building, antenna, and other related telecommunication equipment subject to the following conditions:
 - a. A site plan drawn to scale shall be provided showing the design and painted color of the tower and its location on the property.
 - b. The facility shall be unattended on a daily basis and be visited only for necessary maintenance or repairs.
 - c. No tower shall be constructed with lights and be painted red/white or other bright colors except when specifically required by a Federal law or regulation. When lights are required, white or strobe lights shall not be used unless specifically required by Federal law or regulation.
 - d. The tower shall be sited and be of a design

and color(s) that would incorporate the characteristics of the immediate surrounding area so as to provide a natural blending of the tower into its surrounding environment and be aesthetically harmonious with it. No advertising shall be permitted on the tower.

- e. The tower shall be constructed so as to allow for the co-location of at least two (2) additional antennas unless the applicant can demonstrate this requirement is not technically or reasonably feasible.
- f. The maximum height of the tower including antenna shall be two hundred (200) feet. Towers over two hundred (200) feet may be permitted if applicant can show additional height is necessary to provide personal wireless services within the Village of Butler and the additional height is no greater than necessary to meet the minimal technical needs of the applicant. The maximum size of the equipment building shall be four hundred (400) square feet.
- g. Wireless telecommunication facilities shall be the sole use of the property.
- h. The minimum setback line between the base of the tower and all adjacent properties shall be the height of the tower except if the property abuts a public right-of-way, then the setback line shall be either thirty (30) feet from the edge of the public right-of-way or the distance of the height of the tower measured from the base of the tower to the nearest edge of the traveled portion of the right-of-way, which ever is greater.
- i. The site shall be a minimum of five hundred (500) feet from the nearest dwelling.
- j. The applicant shall demonstrate that the need for the proposed tower cannot be accommodated by co-locating antenna on an existing tower.
- k. If the tower is abandoned, it shall be removed within ninety (90) days of its last date of operation.

SECTION 403.4 AREA AND BULK REQUIREMENTS

See Section 404, SCHEDULE OF REGULATIONS, limiting the height and bulk of buildings, the minimum lot size, the maximum density permitted and establishing minimum yard setback requirements.

NOTES TO SECTION 404

- (a) In an R-2 Residential District, the permitted number of dwelling units per acres in a townhouse development shall further be based on the following regulations:
 - 1. Maximum number of dwellings per building - 12
 - 2. Minimum lot area per building of 12 units - 17,400 sq ft
- (b) In a R-2 Residential District, the area used for computing the

density shall be the total site area exclusive of any public dedicated rights-of-way either interior or bounding roads.

- (c) In a R-2 Residential District, front, side or rear yards do not refer directly to the spacing between buildings in a multiple family development for two or more buildings on the same parcel. In such cases, the minimum distance between any two buildings shall be based upon the height of each building, and in no instance shall this distance be less than thirty-five (35) feet. Wherever the side or rear yard of a multiple family development abuts a one family residential development, the minimum side yard width and rear yard depth shall be at least thirty-five (35) feet.
- (d) Off-street parking shall be permitted to occupy part of the required front yard after approval of the parking plan layout and points of ingress and egress by the Village Planning Commission.
- (e) No side yards are required along the interior side lot lines of the District. On an exterior side yard abutting a R-Residential District, there shall be provided a minimum yard setback of thirty (30) feet.
- (f) Off-street loading space shall be provided in the rear yard in accordance with the provisions of Section 500.4 of this Ordinance and shall be provided in addition to any required off-street parking spaces.
- (g) Side and rear yards shall be equal to at least the height of the average of the various heights of the building masses, excluding towers and other appurtenances. All side and rear yards abutting a R-Residential District shall provide open space equal to at least one hundred (100) feet in width.
- (h) A six (6) foot obscuring fence or screen, or a twenty (20) foot greenbelt, measured from the lot line, with obscuring plantings shall be provided along those side and rear lot lines abutting a residential development.
- (i) Buildings in the Central Business area are exempt from the thirty foot (30') front yard setback, as long as the building line conforms to the general pattern of the existing structures in the area, and that the site plan is approved by the Village Planning Commission. The Central Business area is outlined on the official zoning map for the Village of Butler.

SECTION 404

SCHEDULE OF REGULATIONS

SCHEDULE LIMITING HEIGHT, BULK, DENSITY AND AREA BY ZONING DISTRICT

Use Districts	D. U. Per Acre	Minimum Lot Area Requirements per Dwelling Units		Maximum Height of Building		Minimum Yard Setback (Per Lot in Feet)				Minimum Floor Area
		Area in Sq. Ft.	Width in Ft.	In Feet	In Stories	Front Yard	Each Side Yard	Sum of the Widths	Rear Yard	Per Unit (Sq. Ft.)
R-1 RESIDENTIAL One & Two Family	4.15	10,500	80	40	2	30	6	16	30	800
R-2 Residential One & Two Family	5.01	8,700	70	40	2	25	5	14	25	800
Townhouse Dwellings	18.00	1,450 (a)	16	40	3	15			10	800
Multiple Family	18.00	(b)		40	3	35	(c)		(c)	800
B-1 Business				40		30(d,i)	(e)		24 (f)	
I Industrial				50		50 (d)	(g,h)		(g,h)	

ARTICLE V

GENERAL PROVISIONS

SECTION 500 SCOPE OF THE ZONING ORDINANCE

The provisions of this Zoning Ordinance shall apply to all land in the Village of Butler, Ohio, and no building or structure or part thereof, shall be erected, converted, reconstructed or structurally altered, not shall any building or land be used, designed, or arranged for any purpose, except in conformity with the provisions of this Ordinance.

SECTION 500.1 NON-CONFORMING LOTS, NON-CONFORMING USES OF LAND AND NON-CONFORMING STRUCTURES

1. Purpose:

The purpose of this Section is to provide for the eventual and equitable elimination of non-conforming lots, non-conforming uses of land and non-conforming structures which do not conform to the provisions of this Ordinance. Non-conforming lots, uses and structures are declared to be incompatible with the permitted uses in the district involved.

2. Intent:

Within the districts established by this Ordinance or amendments that may later be adopted, there exist lots, uses of land, structures, and uses of structures and land in combination which were lawful before this Ordinance was passed or its present amendments adopted, but which would be prohibited, regulated or restricted under the terms of this Ordinance or amendments. It is the intent of this Ordinance to permit these non-conformities to continue but not to encourage their survival.

3. Uses Under Conditional-Use Provisions Not Non-Conforming Uses:

Any use which is permitted as a conditional use in a district under the terms of this Ordinance shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

4. Incompatibility Of Non-Conformities:

Non-conformities are declared by this Ordinance to be incompatible with permitted uses in the district in which such use is located. A non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged more than ten (10) percent after the effective date of the adoption or amendment of this Ordinance.

5. Avoidance Of Undue Hardship:

To avoid undue hardship, nothing in this Ordinance

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 Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be construction, providing that work shall be carried out diligently.

6. Certificates For Non-Conforming Uses:

The Zoning Inspector may upon his own initiative, or shall upon the request of any owner, issue a certificate for any lot, structure, use of land, use of structure or use of land and structure in combination, that certifies that the lot, building structure or use is valid non-conforming. The certificate shall specify the reason why the use is a non-conforming use, including a description of the extent and kind of use made of the property in question, the portion of the structure or land used for the non-conforming use, and the extent that dimensional requirements are non-conforming. The purpose is to protect the owners of land or structures that are or become non-conforming. No fee shall be charged for such a certificate. One copy of the certificate shall be returned to the owner and one copy shall be retained by the Village, which shall maintain as a public record, a file of such certificates.

7. Substitutions Of Non-Conforming Uses:

So long as no structural alterations are made, except as required by enforcement of other codes or ordinances, any non-conforming use may, upon appeal to the approval by the Village Planning Commission, be changed to another non-conforming use of a less intensive classification, or the Planning Commission shall find that the use proposed for substitution is more appropriate to the district than the existing non-conforming use. In permitting such change, the Planning Commission may require that additional conditions and safeguards be met, which requirements shall pertain as stipulated conditions to the approval of such change, and failure to meet such conditions shall be considered a punishable violation of this Ordinance. Whenever a non-conforming use has been changed to a less intensive use, such use shall not thereafter be changed to a more intensive use. (For replacement of non-conforming mobile or manufactured homes see paragraph #13 below)

8. Single Non-conforming Lots Of Record:

In any district in which single family dwellings are permitted, a single family dwelling and customary

accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, regardless of limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable within the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variances of requirements of this Ordinance other than lot area or lot width shall be obtained only through action of the Village Planning Commission. No portion of any lot shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.

9. Non-Conforming Uses Of Land:

Where, at the time of adoption or amendment of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Ordinance, the uses may be continued so long as they remain otherwise lawful, provided:

- a. No such non-conforming uses shall be enlarged or increased, nor extended to occupy more than ten (10) percent more of the greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance.
- b. No such non-conforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of the adoption or amendment of this Ordinance.
- c. If any non-conforming uses of land are discontinued or abandoned for more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- d. No additional structure not conforming to the requirements of this Resolution shall be erected in connection with such non-conforming use of land.

10. Non-Conforming Structures:

Where a lawful structure exists at the effective date of the adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, they may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such non-conforming structure may be enlarged

or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

- b. Should such non-conforming structure or non-conforming portion of a structure be destroyed by any means, it may be reconstructed as long as its non-conformity is not increased.
- c. Should any structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

11. Non-Conforming Uses Of Structures And Land In Combination:

If a lawful use involving individual structures or a structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged or extended by more than ten (10) percent, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such a use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- c. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use for a period of one (1) year or more, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
- d. When a non-conforming use of structure or structure and land in combination, is discontinued or abandoned for more than one (1) year, the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- e. Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

12. Repairs And Maintenance:

On any non-conforming structure, or portion of a structure containing a non-conforming use, work may be done on ordinary repairs or on repair and replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased except as here above provided. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

13. Replacement of non-conforming mobile and manufactured homes:

Non-conforming mobile and manufactured homes can be replaced with manufactured homes meeting the latest applicable building codes as long as the non-conformity is not increased.

SECTION 500.2 ACCESSORY BUILDINGS AND USES

Accessory buildings and uses as permitted in this Ordinance shall be subject to the following conditions:

1. An accessory building attached to the principal building, shall comply with the requirements of this Ordinance applicable to the main building.
2. Detached accessory uses or buildings shall be permitted in any required side or rear yard provided such uses are incidental to the principal use and does not include any activity conducted as a business.
3. An accessory building in a Residential District must be set back at least six feet (6') from any side and rear yard lines.

SECTION 500.3 OFF-STREET PARKING REGULATIONS

In all districts, in conjunction with the erection or enlargement of every building or structure, off-street parking space shall be provided with adequate access to each space. In connection with all permitted uses, off-street parking spaces shall be provided before a certificate of occupancy shall be issued.

1. General Regulations:
 - a. Land area designated for off-street parking facilities shall be used solely for the parking of vehicles and no commercial repair work, storage or service of any kind shall be conducted on all or part of such parking lot.
 - b. Any use not specifically mentioned, shall provide minimum off-street parking facilities in accordance with the requirements established for a use which is similar in type and nature.

- c. Public uses such as churches, schools, and parks, may establish with business or industrial establishments joint parking facilities to meet the required number of parking spaces, provided that a written agreement is forwarded, reviewed and approved by the Village Planning Commission and further, provided that all parking areas so designated be within three hundred (300) feet of the public use.
- 2. Minimum Number of Off-Street Parking Spaces Required--
Use Designation/Minimum Number of Spaces Required
 - a. Residential Uses:
 - Two (2) per dwelling
 - b. Mobile Home Parks:
 - Two (2) for each mobile home site and one (1) for each employee of the mobile home park.
 - c. Retail establishments:
 - One (1) space for each three hundred (300) square feet of usable floor area plus one (1) space for each employee.
 - d. Office Uses:
 - One (1) space for each one hundred (100) square feet of usable floor area.
 - e. Industrial Uses:
 - One (1) space per employee
 - f. Institutional and Recreational Uses:
 - One (1) space for each three (3) persons, based on the maximum capacity of the institutional or recreational use.
- 3. Supplementary Parking Space Requirements for the uses within Specified Zoning Districts.
 - a. R-Residential Districts
 - (1) In R-1 Residential Districts, the required number of off-street parking spaces shall be provided on the same lot as the building which they are intended to serve.
 - (2) Multiple Family developments shall further comply with the following parking space requirements:
 - (a) No more than thirty-five (35) percent of the area of any required minimum distance between buildings shall be devoted to off-street parking drives, aisles and

maneuvering lanes.

- (b) Ingress and egress to a parking lot within a multiple family development shall not be across land developed for one family residential uses.
- (c) Each entrance and exit to and from any off-street parking lot shall be located at least forty (40) feet away from adjacent property lines abutting a one or two family residential development.

b. Business Districts

- (1) Off-street parking shall be permitted to occupy part of the front yard after the parking plan layout, drives and aisles have been reviewed and approved by the Village Planning Commission.

A minimum front yard setback of ten (10) feet exclusive of drives and aisles and measured from the nearest point of the off-street parking area and the nearest point of the street right-of-way line shall be maintained.

- (2) Off-street parking facilities shall be located on the same lot or within two hundred (200) feet of the building it is intended to serve. The maximum distance of two hundred (200) feet shall be measured from the nearest point of the building to the nearest point of the off-street parking lot.

- (3) Ingress and egress to parking lots or loading areas within a B-Business District shall not be across land zoned for R-Residential purposes.

c. Industrial Districts

Parking shall be permitted within the side and rear yard setback. When parking is planned for side and rear yards, the layout of drives, aisles, and maneuvering lanes shall be subject to review of the Village Consulting Engineer and approval by the Village Planning Commission.

4. Off-Street Parking Space Layout and Standards

- a. Access into all parking spaces shall be through means of maneuvering lanes. Backing directly from a parking space onto a street is prohibited.
- b. Parking areas shall be of useable shape improved with bituminous, concrete or equivalent surfacing material, and graded and drained as to

dispose of all surface water accumulation.

- c. All lighting used to illuminate such parking areas shall be arranged as to direct the lighting away from adjoining properties or streets and no open light sources, such as floor lights or the stringing of light bulbs, shall be permitted.
- d. Parking lots provided to serve a B-Business or I-Industrial District shall be provided with a continuous and obscuring fence six (6) feet in height measured from the surface of the parking lot, on these sides abutting a residential district.

SECTION 500.4

OFF-STREET LOADING AND UNLOADING

Adequate space for the standing, loading, or unloading of motor vehicles involving the distribution of materials or merchandise shall be provided on every lot in connection with every building or structure in order to avoid undue interference with the public use of dedicated rights-of-way. Such space shall be provided as follows:

- 1. All spaces shall be laid out in the dimension of at least sixteen by fifty (16 x 50) feet, or eight hundred (800) square feet in area, with a clearance of at least twenty (20) feet in height.
- 2. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface.
- 3. Loading space shall be provided as area additional to off-street parking spaces and shall not be considered as supplying off-street parking space.
- 4. All loading or unloading spaces shall be provided according to the following ratio of spaces to floor area.

<u>Gross Floor Area</u>	<u>Space Requires Per Square Feet of Useable Floor Area</u>
0 - 5,000	One (1) space
5,001 - 20,000	One (1) space plus one (1) space for each 5,000 square feet in excess of 5,001.
20,001 - 100,000	Five (5) space plus one (1) space each 20,000 square feet in excess of 20,001.
Over 100,000	Minimum five (5) spaces

SECTION 500.5

TEMPORARY BUILDINGS AND STRUCTURE

Temporary buildings for uses incidental to construction work shall be permitted for a period not to exceed a one (1) year

period.

SECTION 500.6

SIGN REGULATIONS

1. The following signs are permitted in any district:
 - a. One non-illuminated sign advertising the sale or lease of the lot or building not exceeding six (6) square feet in area on any lot.
 - b. Signs appropriate to a public or semi-public building for the purpose of displaying the name and activities or services therein, provided, not larger than a total of twelve (12) square feet and restricted to the premises.
 - c. Signs incidental to legal process and necessary to the public welfare.
 - d. No sign shall extend into any highway or street right-of-way.
 - e. Home Occupations - For the purpose of advertising there shall be no more than one (1) sign or identification, and it shall not exceed four (4) square feet in area and shall be attached flat against a building wall.
2. The following signs are permitted only in a business district providing such signs are in direct relation to the use of the premises on which they are located.
 - a. Business signs may be fixed flat against the wall of buildings or may project, therefrom, not more than four (4) feet. The bottom of a projecting sign shall be at least ten (10) feet above the finished grade of the building. Projecting signs shall not be over twelve (12) square feet in area.
 - b. Any illuminated sign shall be so shaded as not to interfere with the vision of persons on the highway or to annoy neighbors.
 - c. No business sign shall be erected closer than eighty (80) feet to any intersection with the exception of those signs incidental to legal process and necessary to the public welfare or those signs attached to a building or structure.
 - d. All signs erected within one hundred (100) feet of any intersection must be erected so as not to obstruct view or cause a traffic hazard.
 - e. Any sign illuminated with electric lights (including neon or other gaseous type tubes or incandescent lamps) erected within one hundred (100) feet of an intersection where an illuminated device has been provided for the control of traffic may not duplicate, in the electric light of such sign, any colors appearing in the traffic control signal.

- f. No sign shall be located on or project into a public right-of-way.

SECTION 500.7 LAND FILL AND DUMPING OPERATIONS

The use of land for filling or dumping of earth, dams, gravel and decayed or decomposed waste materials, not in connection with general farming, agriculture, horticulture or landscape activities shall comply with the provisions of all other Ordinances of the Village of Butler relevant thereto.

SECTION 500.8 FENCE/SCREENING DEVICES

1. Definitions

As used in this Section the following definitions shall apply:

- a. Fence - Is any structure composed of wood, iron, steel, shrubbery, hedges, or other material erected in such a manner and position as to enclose or partially enclose all or any part of any premises. Trellises or other structures supporting or for the purpose of supporting vines, flowers, and other vegetation when erected in such position as to enclose all or any part of any premises shall be included within the definition of the word "fence". Structures erected other than on lot lines or in close proximity to lot lines, which have solely an ornamental purpose and which do not in fact serve the purpose of enclosing or partially enclosing premises or of separation premises from adjoining premises, shall not be included within the definition of the word "fence".
- b. Privacy Fence - Is a fence made to inhibit public view and provide seclusion and, when viewed at right angles, having more than fifty percent (50%) of the area of its vertical plane (the area within a rectangular outline enclosing all parts of the fence in its vertical plane) closed to light or air. Permitted privacy fences are:
 - (1) Basket Weave or Woven Fence - Is a fence made of interwoven strips or slats of flexible or semi-flexible material in which the pattern has the appearance of a plaited basket.
 - (2) Louver or Ventilating Fence - Is a fence made of a series of slats placed at an angle or positioned so as to provide air but to deflect light perpendicular to its vertical plane.
- c. Open Ornamental Fence - A fence usually made of wood constructed for its beauty or decorative effect and , when viewed at right angles, having not less than fifty percent (50%) of the area of

its vertical plane (the area within a rectangular outline enclosing all parts of the fence in its vertical plane) open to light and air. Permitted open ornamental fences are:

- (1) Rail or Split Rail Fence - Is a fence constructed of narrow, whole or split, wooden timbers placed horizontally between upright supporting posts.
 - (2) Picket Fence - Is a open fence made of upright pales or slats.
- d. Chain Link Fence - Is a fence usually made of metal consisting of loops or wire interconnected in a series of joined links.
 - e. Barbed Wire Fence - Is a fence made with metal wire having sharp points or barbs along its length.
 - f. Stockade (palisade) Fence - Is a fence constructed with a row of large pointed stakes placed upright against each other having more than fifty percent (50%) of the area of its vertical plane closed to light or air.

2. Permitted Fences in R-Residential District

Fences shall be permitted in the R-Residential District as follows:

- a. Open Ornamental Fences (See Appendix A for Example of Open Ornamental Fence Plan)
 - (1) Front Yards - Open Ornamental fences may be erected in front yards parallel to the building line to a height not exceeding three (3) feet; provided however, that rail or split rail fences may be erected in front yards parallel to and on or approximately on the common lot line but not nearer than one (1) foot to the street right-of-way.
 - (2) Side and Rear Yards - Open Ornamental fences may be erected in side and rear yards parallel to and on, or approximately on, the common lot line to a height or not more than six (6) feet.
- b. Chain Link Fences (See Appendix B for Example of Chain Link Fence Plan)

Chain link fences shall be permitted only in rear and side yards. Said fences may be erected parallel to and on, or approximately on, the common lot line to a height not exceeding five (5) feet above the natural grade.
- c. Privacy Fences (See Appendix C for Example of Privacy Fence Plan)

Privacy fences shall be permitted only in rear yards. Such fences shall be set back at least six feet (6') from any side or rear lot line and shall not exceed seven (7) feet in height above the natural grade.

- d. Shrubbery or Hedges (See Appendix D for Example of Living Fence Plan)

Shrubbery or Hedges may be permitted as a fence in the side and rear yards provided the centerline of said fence shall be set back at least three (3) feet from any side or rear lot line.

- e. General

Any fence within ten (10) feet in any direction from a point where any driveway, either on the fence owner's lot or the adjoining lot, intersects with the sidewalk shall have a minimum of seventy-five percent (75%) open area.

3. Fences required in B-Business or I-Industrial Districts and for Multiple Family Developments

Masonry walls and fences shall be provided and maintained for multiple family developments or uses within any B or I District on those sides abutting an R-1 Residential District. Walls and fences shall be provided in conformance with the following regulations:

- a. An obscuring fence or wall which meets the following minimum height requirements shall be required for those uses permitted in the districts listed below where the side and/or rear yard of such uses abut onto any R-Residential District:

<u>District</u>	<u>Minimum Height Requirement (In Feet)*</u>
B Business	5 6
I Industrial	6

* The minimum height requirements shall be measured from the surface of the ground.

- b. No fence or wall shall be extended toward the front lot line beyond the front of the principal building or structure or the required minimum front yard setback, or whichever is greater.
- c. Required fences and walls shall be located on the lot line except where such fence or wall interfere with underground utilities or surface water drainage conditions.
- d. Such walls or fences may be constructed with openings which do not in any square section (i.e. height and width) exceed twenty (20)

percent of the total surface. Where walls or fences are pierced, the openings shall be so spaced as to maintain the obscuring character required. The arrangement of the openings shall be reviewed and approved by the Building Inspector.

- e. All fences and walls shall be constructed of materials approved by the Building Inspector to be durable, weather resistant, rust resistant and easily maintained.

4. Swimming Pools

Swimming pools shall be surrounded by a fence, not less than six (6) feet in height and all openings, doorways, and entrances into said pool area shall be equipped with gates of equal height with said fence, which gates shall be provided with latches. Above ground pools shall have side walls or a fence, or a combination of both, at least six (6) feet in height and openings and entrances shall conform to below ground pool requirements. The design of any pool fence must be approved by the Zoning Inspector.

5. Restricted Fences

Barbed wire fences, stockade or electrified fences are hereby prohibited.

6. Similar Fences

The Zoning Inspector may permit other fences which are similar in character and design to one or more of the fences permitted by this Ordinance.

7. Corner or Through Lot (See Appendix E for Example of Corner or Through lot Fence Plan)

Where a rear or side yard abuts a street, fences otherwise permitted in side or rear yards shall not extend into required yards, provided however, that this provision shall not prohibit permitted rail or split rail fences erected in such side or rear yards parallel to and not nearer than one (1) foot to the side or rear lot line, at a height not to exceed three (3) feet above the natural grade.

8. Maintenance

Such permitted fences shall be maintained in good condition, be structurally sound and attractively finished at all times. Any grounds between such fences and lot lines shall be well maintained at all times. Any such fences permitted on the lot lines shall be designed, constructed and finished so that the supporting members thereof shall face the lot of the owner of the fence.

9. Certificate

Any fence which may be permitted shall require the

issuance of a zoning certificate prior to its erection by the Zoning Inspector after an application for same has been approved by him.

10. Inspection

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

SECTION 500.9

PLANT MATERIALS

Whenever, in this Ordinance, a greenbelt or planting strip is required, it shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant material to provide a screen to abutting properties. Suitable plant materials shall be provided in accordance with the following regulations:

1. Spacing

- a. Plant materials shall not be placed closer than four (4) feet from the property line.
- b. Where plant materials are planted in two (2) or more rows, plantings shall be staggered.

2. Suggested Plant Materials

<u>Plant Materials</u>	<u>Minimum Height Diameter</u>
a. Evergreen Trees	3.5'
(1) Hemlock	
(2) Pine	
(3) Spruce	
(4) Fir	
b. Tree Like Shrubs	4'
(1) Mountain Ash	
(2) Dogwood	
(3) Redbud	
(4) Hornbeam	
(5) Hawthorne	
(6) Flowering Fruit Trees	
c. Large Deciduous Shrubs	3'

- (1) Honeysuckle
- (2) Forsythia
- (3) Lilac
- (4) Buckthorn
- (5) Russian Olive
- (6) Vuburnum
- (7) Wiegelia
- (8) Coneaster

d. Large Deciduous Trees

- (1) Oaks
- (2) Burch
- (3) Honey locust
- (4) Gum
- (5) Sycamore
- (6) Hard Maple
- (7) Ash

3. Prohibited Plant Materials

- a. Box Elder
- b. Poplars
- c. Willows

SECTION 500.10 CORNER CLEARANCE

No fence, wall, greenbelt, planting strip, or any other obstruction to vision above a height of two and one half (2½) feet from the established street grade shall be permitted within the triangle area at the intersection of any street right-of-way lines formed by a straight line drawn between said right-or-way lines at a distance along each line of thirty (30) feet measured from their point of intersection.

SECTION 500.11 APPROVAL OF SUBDIVISION PLATS

No proposed plat of a new subdivision shall hereafter be approved unless the lots within such plat are equal or exceed the minimum lot area and width requirements set forth in the various districts of this Ordinance.

SECTION 500.12 PRINCIPAL BUILDING

Within any R-1 Residential District no more than one (1) principal building shall be permitted on any one (1) lot.

SECTION 500.13 CORNER LOTS

Corner lots in all districts are required to meet the minimum front yard setbacks, facing both streets as indicated in that district.

SECTION 500.14 LOTS, YARDS, AND OPEN SPACES

No space which, for the proposed building or dwelling group, has been counted or calculated as part of a side yard, rear yard, front yard or other open space required by this Ordinance may, by reason of change in ownership or otherwise, be counted or calculated to satisfy the yard or open space requirements of or for any other building.

SECTION 500.15 BUILDING AND ZONING CERTIFICATE

No building permit or zoning certificate shall be issued without evidence that the Richland County Health Department has approved the sanitary sewage disposal system for which the building permit or zoning certificate has been requested.

SECTION 500.16 INCONSISTENCIES

In the event any of the requirements or regulatory provisions of this Ordinance are found to be inconsistent one with another, the more restrictive or greater requirements shall be deemed in each case to be applicable.

SECTION 500.17 CONDITIONS AND SAFEGUARDS

The Village Planning Commission shall have the power to impose any additional conditions to safeguard the intent and objectives of this Ordinance.

SECTION 500.18 CONDITIONAL ZONING CERTIFICATES

1. Purpose

Provision is made in this Ordinance for a more detailed consideration of each of certain specified uses or activities as it may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic, and traffic movement, concentration of population, processes and equipment employed, amount and kind of public facilities and services required together with any other public facilities and services required, together with any other factors. Land and structural uses possessing these particularly unique characteristics are designated as Conditionally Permitted Uses and are permitted through the issuance of a Conditional Zoning Certificate with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

2. Any application for a Conditional Zoning Certificate for any land use or structure permitted under this Ordinance shall be submitted in accordance with the following procedures:

a. Application to Village Planning Commission:

An application for a Conditional Zoning Certificate shall be submitted to the Village Planning Commission on a special form provided for that purpose. The Village Planning Commission, where appropriate, may refer an application to qualified consultants for a report if it deems the proposed use may cause undue traffic generation, population concentrations, or extra size sewer and/or water utility systems. The cost of such report shall be at the expense of the applicant, and said report shall be furnished to the Village Planning Commission within thirty (30) days from

the date upon which it was requested.

b. Data Required with Application:

- (1) Form supplied by the Zoning Inspector and completed by the applicant.
- (2) Site plan, plot plan or development plan of the entire property being considered, drawn at a scale of 1" = 100' and showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their intended use.
- (3) The application shall be signed by the landowner or be accompanied by written evidence that the landowner has authorized the application to be filed.

c. Review by Village Planning Commission:

The Village Planning Commission shall review the proposed development, as presented, on the submitted plans and specifications in terms of the conditions established for the specified use. In cases where the Village Planning Commission requests a report from a consultant, the application will not be reviewed until the Village Planning Commission has received the report along with a receipt for the cost of such report. Such review shall be completed and made public within sixty (60) days following the date the application was submitted.

d. Validity and Violation of Conditional Zoning Certificates:

A certificate shall not be valid until all of the conditions stated in the certificate have been complied with prior to commencement of the approved use. The breach of any safeguard, condition or requirement shall constitute a violation of this Ordinance and subject the violator to civil or criminal prosecution.

e. Continuation of Existing Uses Declared to be Conditionally Permissible:

Any use existing at the time of enactment of this Ordinance and conditionally permissible within their respective districts as determined by the Village Planning Commission under this Ordinance, shall be allowed to continue so long as they don't expand and receive a Conditional Zoning Certificate by the Zoning Inspector within one (1) year after the enactment of this Ordinance.

SECTION 500.19

SITE PLAN REVIEW

1. A site plan shall be submitted to the Village Planning

Commission for approval of:

- a. Any use or development for which the submission of a development plan is required by any provision of this Ordinance.
 - b. Any conditionally permitted use.
2. Every site plan submitted to the Village Planning Commission shall contain such information and be submitted in such form as the Village Planning Commission may prescribe in its rules. Supporting evidence in the form of a map, chart, table or drawing shall be declared as an exact or accurate representation of the development proposal shown on the site plan.
 3. Approval of the site plan by the Village Planning Commission shall constitute approval of the development. The breach of any requirement or the mis-representation of facts, figures or other supporting evidence by the applicant shall constitute a violation of this Ordinance. Such violation shall be declared as a penalty as prescribed in Article XIII of this Ordinance and shall automatically invalidate the zoning certificate granted.

SECTION 500.20 PUBLIC AND PRIVATE ACCESS REQUIREMENTS

No principle building shall be located on a lot which does not meet the minimum lot width requirement of Section 404, and each lot shall have frontage and access along a duly dedicated and accepted public or private street within the Village.

SECTION 500.21 HOME SALE

A home sale is a sale of personal property to the general public conducted on any portion of the residence property within a residential zoning district, to include but not limited to garage sales, patio sales, yard sales, carport sales, basement sales, porch sales, driveway sales, rummage sales. All home sales must meet the following requirements:

1. Home sales shall not be conducted on the same residential property more than four (4) times in a twelve (12) month period.
2. No home sale shall be commenced earlier than nine (9:00) A.M., nor shall such sale last later than sundown.
3. No home sale shall last more than three (3) consecutive days.
4. No home sales shall offer new or used merchandise for sale that has been purchased by the resident for purpose of such resale at such home sale.

SECTION 500.22 FIREWOOD, WOODPILES, SCRAP WOOD, ETC.

In all districts firewood, woodpiles, or similar materials

must be stored and reasonably stacked on side or rear yards only. Such material must have a minimum setback from the lot line of six (6) feet and be no more than five (5) feet in height and cover no more than a total of 200 square feet and have a total of no more than fifteen (15) linear feet.

SECTION 500.23

PARABOLIC/DISH TYPE ANTENNAE

Parabolic/dish type antennae are allowed in all districts as a permitted use subject to the following requirements. The objective of this regulation is to preserve the residential and building character of the community and to prevent the congestion of properties so as to hinder fire safety in recognition of the facts that the majority of the Village's homes and buildings are located on narrow or small lots and are of a character and type of an earlier period in the community's history and that such antennae are of such size and construction so as to conflict with this objective.

1. Maximum number permitted per lot:
 - a. Residential lot: One (1)
 - b. Business or Industrial lot: Two (2)
2. Maximum diameter: Eighteen (18) inches
3. Minimum setback from all lot lines of lot: Six (6) feet except corner lots shall comply with Section 500.13.
4. No antenna may be located in a front yard.
5. All antennae shall be no higher above ground level than one-half ($\frac{1}{2}$) the diameter of the antenna unless it is determined that a higher mounting is necessary in order to obtain proper reception, then such height shall not exceed that required to receive proper reception. In order to obtain proper reception, roof-mounted antennae shall only be permitted if the roof-mounted antenna does not exceed the antenna height necessary to obtain proper reception and it does not conflict with the objective of these regulations. Any height exception shall be documented by the installer/manufacture of the antennae.
6. If it is determined that any of the restrictions of Paragraphs 2 to 5 prevent normal reception of the antennae, then the restrictions may be modified so as to permit reception provided there is not substantial detriment to the objectives of this regulation.
7. No antennae shall be mounted in the yard unless a certificate is first obtained from the Zoning Inspector permitting such placement. Antennae may be placed on the roof without a zoning certificate, provided they meet the restrictions of Paragraphs 1 to 6.

ARTICLE VI

GENERAL EXCEPTIONS

SECTION 600 EXEMPT FROM REGULATIONS

This Ordinance applies to all land and to every structure lying within the corporate limits of the Village of Butler, Ohio as those limits now exist or may hereinafter be extended by annexation except land owned by this Village. Land owned by the United States of America, the State of Ohio, Richland County, Worthington Township, the Clear Fork Local School District or any other political subdivision or any department or agency of any of them shall be subject to this Ordinance except to the extent expressly exempted by law.

SECTION 600.1 RESERVED FOR FUTURE USE

SECTION 600.2 RESERVED FOR FUTURE USE

SECTION 600.3 RAILROAD RIGHTS-OF-WAY

For the purposes of this Ordinance, railroad rights-of-way shall be permitted as authorized and regulated by State and Federal Laws, it being the intent of this subsection to exempt railroad rights-of-way from the application of this Ordinance. Building and structures intended to be erected or constructed within the railroad rights-of-way shall comply with the use, area and height regulations of the district in which it is located. Spur tracks shall be extended from the existing railroad right-of-way to adjacent industrial districts only when they are totally within Industrial Districts.

SECTION 600.4 DWELLING QUARTERS, NON-RESIDENTIAL DISTRICTS

Within any B-Business or I-Industrial District sleeping quarters of a watchman or caretaker may be permitted, providing such quarters are made a part and are attached as part of the main building or structure.

SECTION 600.5 PERMITTED HEIGHT EXCEPTION

The height limitations contained in Section 404 Schedule of Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport. Such exceptions shall not be erected at a height greater than twelve (12) feet above the height limit established for the district in which the structure is located.

SECTION 600.6 VOTING PLACE

The provision of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or public election.

SECTION 600.7 ACCESS WAYS

For the purpose of this Ordinance, any walk, terrace or other pavement surfacing providing access to rear yards and/or accessory structures, and not in excess of ten (10) inches above the finished grade, shall not be considered to be a structure, and shall be permitted in any required yard.

SECTION 600.8 PROJECTIONS INTO YARDS

Open, unenclosed, and uncovered porches or paved terraces may project not more than ten (10) feet within the minimum front yard setback, but this shall not be interpreted to include or permit fixed canopies.

SECTION 600.9 LOTS ADJOINING ALLEYS

In calculating the area of a lot that adjoins an alley or lane, for the purposes of applying lot area requirements of this Ordinance, one half (½) the width of such alley abutting the lot shall be considered as part of such lot.

SECTION 600.10 CONSTRUCTION

Nothing in this Ordinance shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this Ordinance and upon which actual construction has been diligently carried on and provided further that such building shall be completed within one (1) year from the date of passage of this Ordinance.

SECTION 600.11 YARD REGULATIONS

When yard regulations cannot reasonably be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified as determined by the Village Planning Commission.

SECTION 600.12 FRONT YARD VARIANCES IN RESIDENTIAL DISTRICTS

In any "R" Residential District where the average depth of at least two (2) existing front yards on lots located within one hundred (100) feet of the lot in question and within the same block are less or greater than the minimum front yard setback prescribed for the district in which such lots are located, the Village Planning Commission may modify the minimum front yard depth of such lot no more than ten (10) feet.

ARTICLE VII

ADMINISTRATION AND ENFORCEMENT

SECTION 700 ADMINISTRATION AND ENFORCEMENT

The provisions of this Ordinance shall be administered by the Zoning Inspector, or his deputies, or such other officials as may be designated by the Village Council.

SECTION 700.1 DUTIES OF THE ZONING INSPECTOR

A Zoning Inspector shall be employed for the purpose of granting zoning certificates and to make inspections of premises or buildings necessary in carrying out his duties in compliance with the provisions of this Ordinance. It shall be unlawful for the Zoning Inspector to issue any certificates or approve any plans until he has inspected such plans in detail and found them to conform with the provisions of this Ordinance.

The Zoning Inspector shall also be responsible for submitting to the Village Planning Commission all applications for Conditional Zoning Certificates. The Zoning Inspector shall not refuse to issue a zoning certificate when the provisions or conditions of this Ordinance are complied with by the applicant. The Village Building Inspector also may be the Zoning Inspector.

SECTION 700.2 APPLICATION PROCEDURE - ZONING CERTIFICATE

1. Before constructing, changing the use of, or altering any building, including accessory buildings, or changing the use of any premises, application shall be made to the Zoning Inspector for a zoning certificate. The application shall include the following information:
 - a. Two (2) copies of a readable plot plan drawn to a scale of not less than ten (10) feet to the inch showing the actual shape, location and exact dimensions of the property to be built upon. If the plot plan is to such a scale that it cannot be reproduced on a 8½" X 14" sheet, it must be accompanied by a 8½" X 11" or 8½" X 14" drawing which shall show the approximate boundaries of any building on the property.
 - b. The shape, size and location of all buildings and other structures to be erected, altered or moved and of any building or other structures already on the property.
 - c. The existing and intended use of the property, including in residential areas, the total number of dwelling units to be accommodated in the building.
 - d. Any other pertinent data as may be required to determine whether the provisions of this Ordinance are being observed properly.

- e. The application shall be signed by the landowner or be accompanied by written evidence that the landowner has authorized the application to be filed.
3. Within twenty (20) days after the receipt of the application the Zoning Inspector shall issue a zoning certificate if the application complies with the requirements of this Ordinance and the application is accompanied by a proper fee as indicated in Section 1000.3 below. If such certificate is refused for cause, the applicant shall be notified of such refusal and cause, within the twenty (20) day period.

SECTION 700.3

FEES

The Village Council shall by ordinance establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals, and other matters pertaining to the administration and enforcement of this ordinance requiring investigations, inspections, legal advertising, postage and other expenses. The schedule of fees shall be posted in the office of the Zoning Inspector, and may be altered or amended only by Village Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

When the Village Planning Commission deems it necessary to cause special studies to be made, the applicant shall bear all direct and related costs.

All fees shall be paid to the Zoning Inspector at the time the application or other permit is requested.

ARTICLE VIII
RESERVED FOR FUTURE USE

ARTICLE IX

VILLAGE PLANNING COMMISSION

SECTION 900

CREATION, APPOINTMENTS AND VACANCIES

There is hereby created a Village Planning Commission composed of the Mayor of this Village, one (1) member of Village Council appointed by Council for his/her term of office on Council and three (3) residents of the Village appointed by the Mayor for six (6) year overlapping terms.

1. In the event of the death of the Council member of the Commission, his or her resignation from this Commission, or resignation from Council, Village Council shall appoint another of its members to serve the remainder of the unexpired term.
2. In the event of the death or resignation of a citizen member of this Commission, the Mayor shall appoint some other resident of this Village for the remainder of the unexpired term.
3. The un-excused absence of any member of this Commission from three (3) consecutive monthly meetings or the establishing of a permanent residence outside of this Village shall be deemed a resignation.

SECTION 900.1

ORGANIZATION AND FUNCTIONS

The Village Planning Commission shall:

1. Elect a chairman, vice-chairman and secretary from among its members to serve for their term upon the Commission;
2. Keep a complete record of its proceedings including the vote of each member on all motions before the Commission;
3. Within the limits of the money appropriated for it, shall purchase such supplies and equipment as it finds necessary to carry out its duties;
4. Retain or otherwise employ within the limits of the money appropriated for it such consultants as it finds necessary to carry out its duties;
5. Establish a schedule for its meetings which shall include at least one (1) regular meeting per month and such additional meetings as are necessary to carry out its duties; and
6. Adopt rules and regulations to govern the conduct of its meetings.

SECTION 900.2

MEETINGS

At least three (3) members must be present at any meeting before any official business can be conducted. An affirmative vote of three (3) members shall be necessary to pass any motion before the Commission. The abstention or refusal to vote of any member shall not be counted for or

against the motion and the member so abstaining or refusing to vote shall be deemed absent for the purpose of the motion upon which he or she abstains or refuses to vote. All meetings of the Commission shall be open to the public at all times. Reasonable steps shall be taken to notify the public and the news media of the time of all regular and special meetings. All records of the Commission shall be public records and shall be filed with the Village Clerk-Treasurer.

SECTION 900.3

POWERS AND DUTIES

The Village Planning Commission shall have the following powers and duties:

1. To initiate amendments to the Village Zoning Ordinance including both changes in the text or changes of the use district of any parcel of land;
2. To review applications for amendments to the Village Zoning Ordinance and make recommendations to Village Council thereon, including both changes in the text or changes of the use district of any parcel of land whether initiated by Village Council or initiated by any owner or lease of the land in question;
3. To review and approve or deny site plans and plot plans as specifically provided for elsewhere in this Ordinance;
4. To grant use or area variances in the use of land permitted in a particular district where the proposed use is similar in character to the uses already permitted in the district and the proposed use will be consistent with the overall character of the district as stated in the Ordinance.
 - a. The Commission shall not grant a Use Variance unless it finds that all of the following conditions apply to the case in question:
 - (1) There are special circumstances or conditions applying to the land, building or use referred to in the application, which circumstances were not created by the applicant.
 - (2) The granting of a variance application is necessary for the preservation and enjoyment of substantial property rights.
 - (3) The granting of the application will not materially affect, adversely, the health or safety of persons residing or working in the neighborhood of the proposed use and will not materially be detrimental to the public welfare or injurious to the property or improvements in such neighborhood.
 - b. The Commission shall not grant an Area Variance unless the property owner has encountered practical difficulties in the use of his/her

property. The factors to be considered and weighted by the Commission are:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
- (2) Whether the variance is substantial.
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
- (4) Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage).
- (5) Whether the property owner purchased the property with knowledge of the zoning restrictions.
- (6) Whether the property owner's predicament feasibly can be rectified through some method other than a variance.
- (7) Whether the spirit and intent behind the zoning requirement would be required to be observed and substantial justice done by granting variance.

In granting any variance under the provisions of this section, the Commission shall designate such conditions in connection therewith as will, in their opinion, secure substantially the objectives of the regulations or provisions in the application on which the variance is granted.

5. To grant variances from the literal requirements of this Ordinance where because of unique circumstances applicable to the particular property under consideration, the literal application of a particular provision of this Ordinance will cause undue hardship and the variance will not be detrimental to the overall purpose of the Zoning Ordinance;
6. To hear and decide appeals from any decision of the Zoning Inspector in denying or granting a zoning or sign certificate under this Ordinance.
7. To issue conditional zoning certificates where such certificates are provided for a particular use within a use district and where the Commission finds that each of the specific conditions has been met. The Commission may waive or modify any specific condition where because of unusual circumstances relating to the property in question or unusual hardship upon the owner, the strict application of all conditions would be inequitable.

In addition to the conditions specifically provided in this Ordinance, the Commission may add such other conditions for approval that are in keeping with the intent and purpose of this Ordinance for the protection of the public welfare.

SECTION 900.4

HEARINGS

1. All appeals to the Village Planning Commission from any decision of the Zoning Inspector shall be filed within thirty (30) days of the decision appealed. It shall be initiated by filing with the Village Clerk-Treasurer, a written appeal on the form provided and must be accompanied by the fee required by Section 700.3 of this Ordinance.
2. All requests for variances or conditional certificates to the Village Planning Commission shall be filed with the Village Clerk-Treasurer, or with the Village Planning Commission when in open session, on a form provided and shall be accompanied by the fee required by Section 700.3 of this Ordinance.
3. Hearings on appeals or on applications for variances shall be held at the next regular Village Planning Commission meeting occurring more than fourteen (14) days after the application is filed or at such special meeting called for this purpose. The fourteen (14) day requirement herein may be waived by the Commission for good cause shown.
4. At the hearing on variances, all testimony shall be received under oath or affirmation, a verbatim record of the proceedings shall be kept, the application shall be allowed upon application and deposit of fees to the issuance of subpoenas for the attendance of witnesses, all testimony shall be subject to cross examination.
5. The Commission shall render its decision within a reasonable time after the hearing not to exceed sixty (60) days and advise the applicant in writing thereof.

SECTION 900.5

NOTICE OF HEARINGS ON VARIANCE

The Clerk-Treasurer of this Village shall give notice of the time and place of the public hearing on all requests for variances by first-class mail at least ten (10) days prior to the hearing to all owners of property within, contiguous to and directly across the street from the parcel or parcels involved. Said notice shall be mailed to the address listed in the current county auditor's tax duplicate. The failure of delivery of said notice shall not invalidate any subsequent action with respect to the proposed variance.

ARTICLE X

AMENDMENT PROCEDURE

SECTION 1000

APPLICATION PROCEDURE

Any person or persons desiring an amendment of the Zoning Ordinance shall accompany the petition for such amendment and submit a special application form provided for such purpose to Village Council. The applicant shall attach the following data to the application form:

1. Names and addresses of the owners of all properties within and contiguous to and directly across the street from the parcel or area proposed to be re-zoned or redistricted.
2. Site plan, plot plan or development plan of the entire property, being considered, showing the location of all abutting streets.

Any person or persons which seek to amend the Zoning Ordinance, shall file, with his application a fee to defray the expenses of processing such application, which fee shall not be refundable. See Section for 700.3 for fee schedule.

Any person or persons making application for a zoning amendment or change shall further indicate the following:

- a. Evidence that the existing Zoning Ordinance is unreasonable with regard to the particular property in question, and deprives the property owner of the lawful and reasonable use of his land. For the purposes of this Ordinance, a limitation upon financial or economic gain from the land in question shall not constitute unreasonable zoning.

SECTION 1000.1

REVIEW AND ACTION PROCEDURES

Butler Village Council may, from time to time, amend by Ordinance the number, shape or area of zoning districts, established on the Zoning Districts Map or the provisions of this Ordinance; but no such amendment shall become effective unless the Ordinance proposing same shall first be submitted in writing by the Clerk of Council to the Village Planning Commission.

The Village Planning Commission shall be given a reasonable period of time; not less than thirty (30) days, and not more than sixty (60) days, for consideration and report on the proposed amendment. The action taken by the Village Planning Commission on the proposed amendment shall be in the form of approval, approval with modifications or disapproval, and shall then be submitted in writing to the Village Council.

Upon receiving the adoption of a motion from the Village Planning Commission, the Village Council shall set a date for a public hearing. Two (2) notices setting forth the time and place of such hearing and the nature of the proposed change or amendment shall be published in one (1) or more newspapers of general circulation in the Village at

least thirty (30) day prior to a public hearing by Village Council.

After such public hearing, the Village Council shall either adopt or deny the action of the Village Planning Commission made on the proposed amendment or adopt some modification thereof. In the event Village Council modifies or overrules the recommendation of the Village Planning Commission, a three-fourths (3/4) vote of Village Council shall be required.

In the event the proposed change or amendment to the Ordinance has been disapproved by Village Council, no such application for a proposed change or amendment to the Ordinance shall be resubmitted for a period of sixty (60) days.

ARTICLE XI

REPEALER

This Ordinance hereby repeals by expression or inference Ordinance 9-1-60 and all amendments thereto and any other prior ordinances which purport to regulate the use of land within the Village of Butler, Ohio.

ARTICLE XII

INTERPRETATION

In the interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience or general welfare. Subject to Article XI, it is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair, or interfere with any existing provision, law or Ordinance, or with any rules, regulations or certificates previously adopted or issued or which shall be adopted or issued pursuant to the law and regulations governing the use of buildings or premises; provided, however, that where this Ordinance imposes greater restrictions than is required by existing ordinance or by rules, regulations, or certificates; the provisions of this Ordinance shall control.

ARTICLE XIII

VIOLATIONS AND PENALTIES

SECTION 1300 PUBLIC NUISANCE

Buildings erected, altered, moved, raised or converted, or any use of land or premises carried on in violation of any provision of this Ordinance shall be declared illegal. Any building or land use activities considered possible violations of the provisions of this Ordinance, which are observed by any Village Official shall be reported to the Zoning Inspector.

SECTION 1300.1 INSPECTION

The Zoning Inspector shall inspect each alleged violation, and shall in writing, order correction of all conditions which are found to be in violation of this Ordinance.

SECTION 1300.2 CORRECTION PERIOD

All violations shall be corrected within a period of thirty (30) days after the written order is issued or for a longer period of time as indicated by the Zoning Inspector in written order. Any violations not corrected within the specified period of time shall be reported to the Village Solicitor who shall initiate prosecution procedures.

SECTION 1300.3 PENALTIES

The owner or owners of any building or premises or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, and any tenant or occupant of such building or premises, who shall assist, and any architect, builder or contractor who shall assist in the commission of any such violation, and any persons who shall violate any of the provisions of this Ordinance or fail to comply therewith shall, for each violation of non-compliance, be deemed guilty of a misdemeanor and upon conviction, the fine is not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00). Each day such violation or failure to comply shall exist shall constitute a separate offense.

ARTICLE XIV

VALIDITY AND SEPARABILITY

It is hereby declared to be the legislative intent of this Ordinance that if any provisions of this Ordinance, or the application thereof to any zoning lot, building or other structure, or tract of land, are declared by a court of competent jurisdiction to be invalid or ineffective in whole or in part, or to be inapplicable to any person, firm, corporation or situation, the effect of such decision shall be limited to the provision or provisions which are expressly stated in the decision to be invalid or ineffective to the zoning lot, building or other structure, or tract of land immediately involved in the controversy. All other provisions of this Ordinance shall continue to be separate and fully effective, and the application of any such provision to other persons or situations shall not be affected.

ARTICLE XV
EFFECTIVE DATE

That this Ordinance shall be in full force and effect from and after the earliest period allowed by law.

ADOPTED:

Date: _____ Vote: _____

Frances E. Hitchman, President of Council

Paul E. Bowen, Mayor

Sandra L. Stull, Clerk-Treasurer

APPROVED AS TO FORM:

Jon K. Burton, Village Solicitor

CERTIFICATE OF CLERK-TREASURER AS TO PUBLICATION

I, Sandra L. Stull, the duly appointed and qualified Clerk-Treasurer of the Village of Butler, Ohio do hereby certify that the foregoing zoning ordinance was posted on July _____, 1981 at

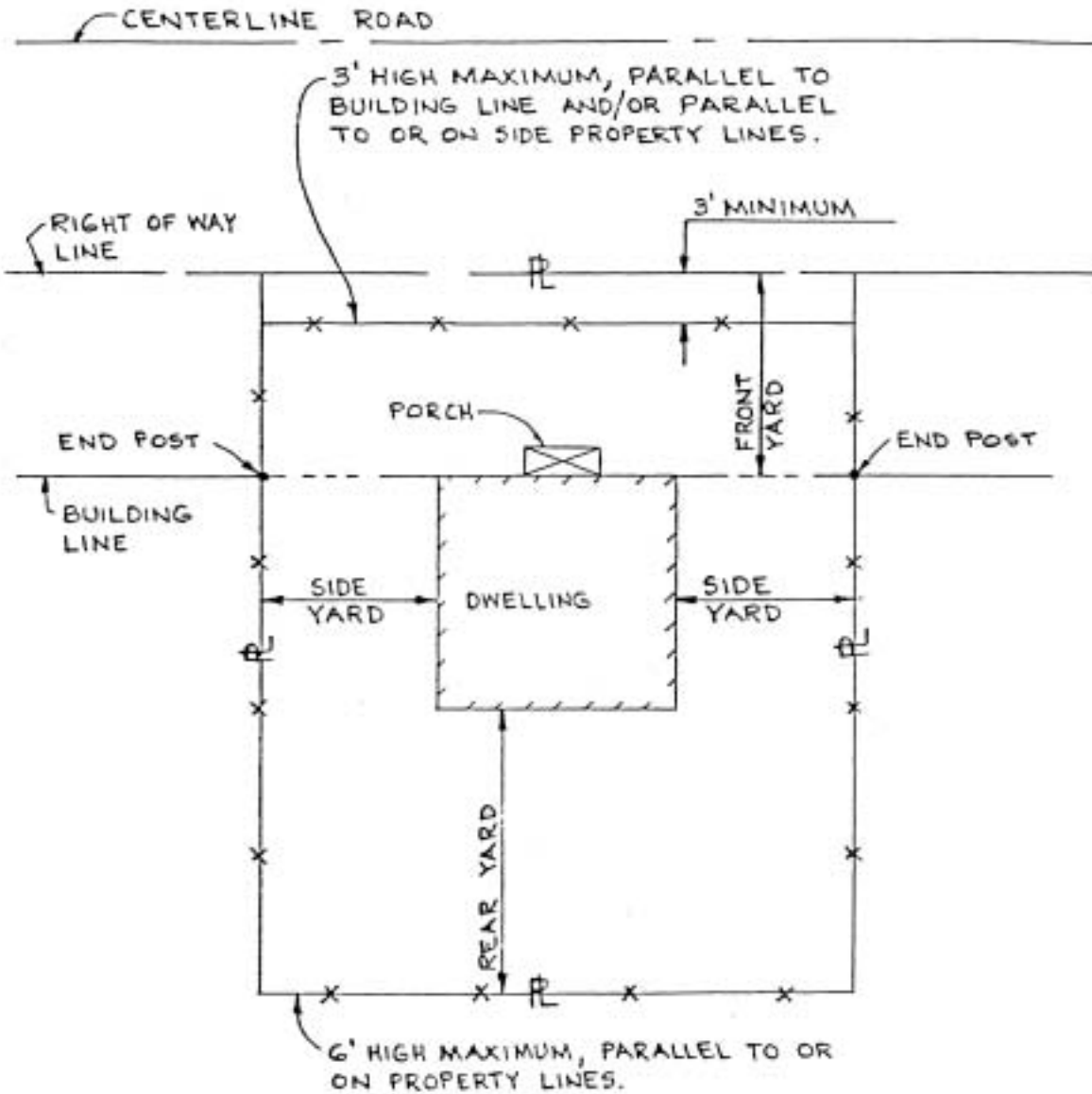
1. Richland Bank, Butler Branch
2. Village Post Office
3. Hitchman Market
4. Village Library
5. Nostalgia Alley Furniture Store

as authorized by Council and removed July _____, 1981.

Sandra L. Stull, Clerk-Treasurer

APPENDICES

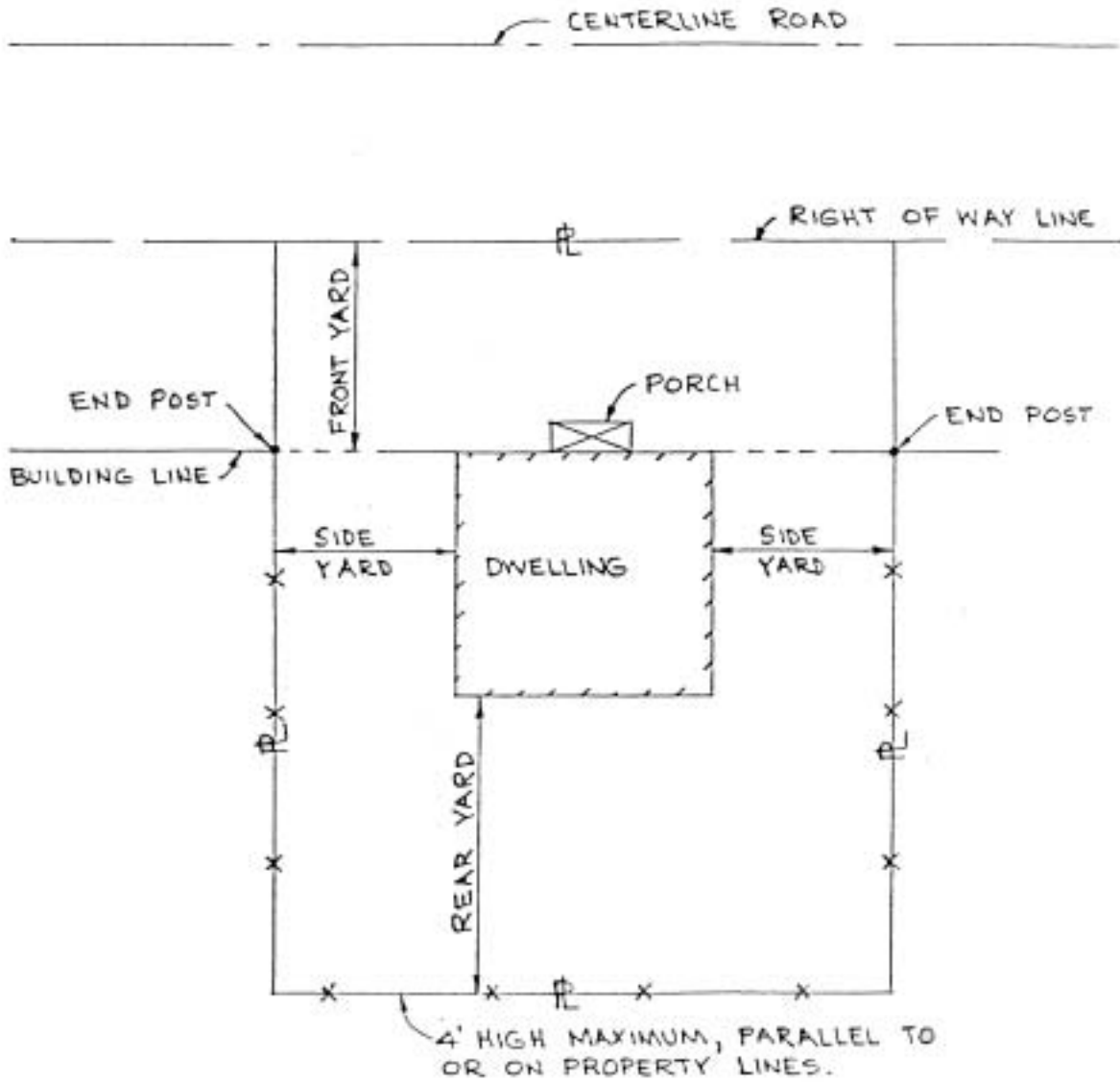
APPENDIX A



PL = PROPERTY LINE
—x— FENCE

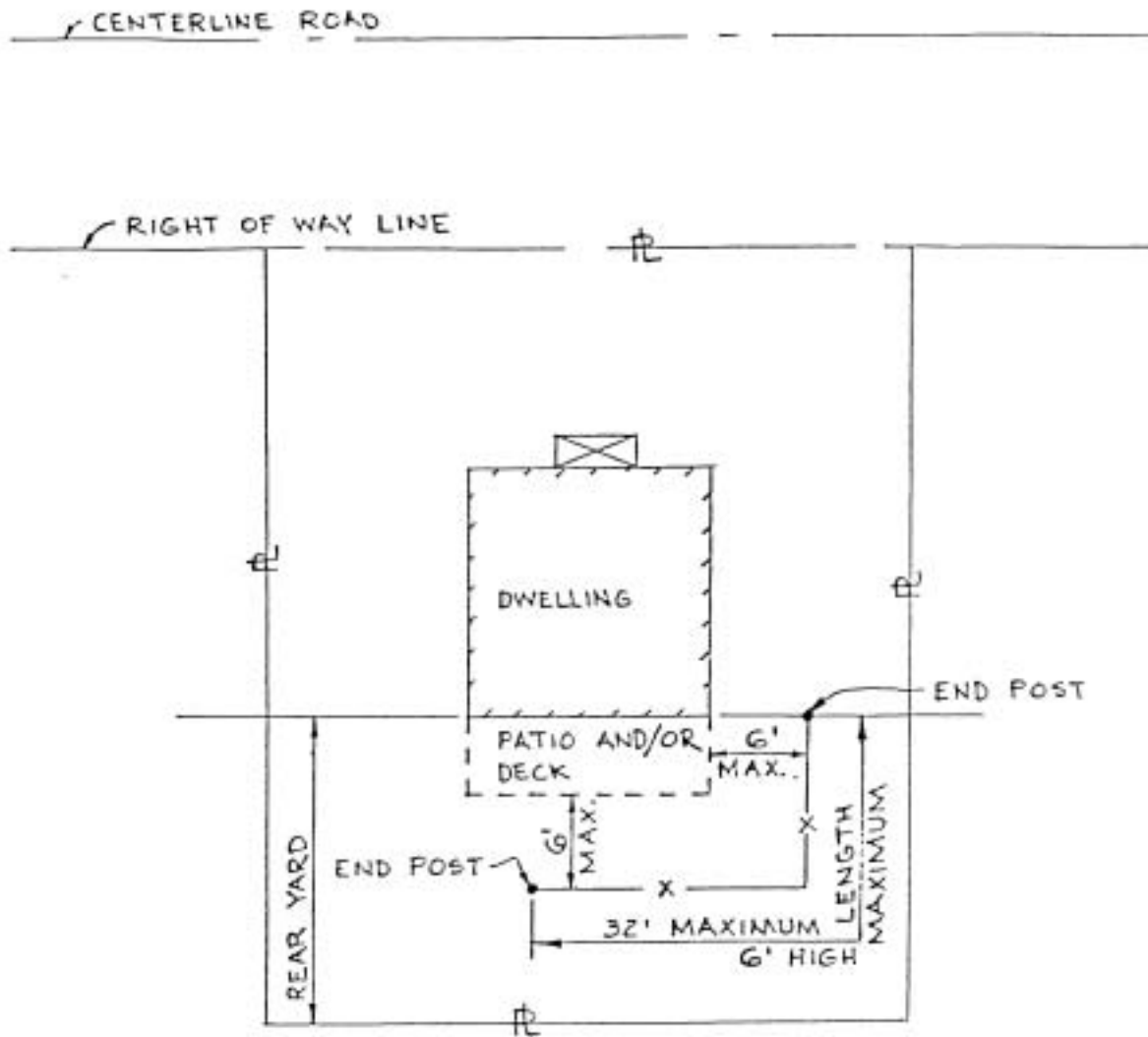
OPEN ORNAMENTAL FENCE PLAN

APPENDIX B



PL = PROPERTY LINE
—x— FENCE

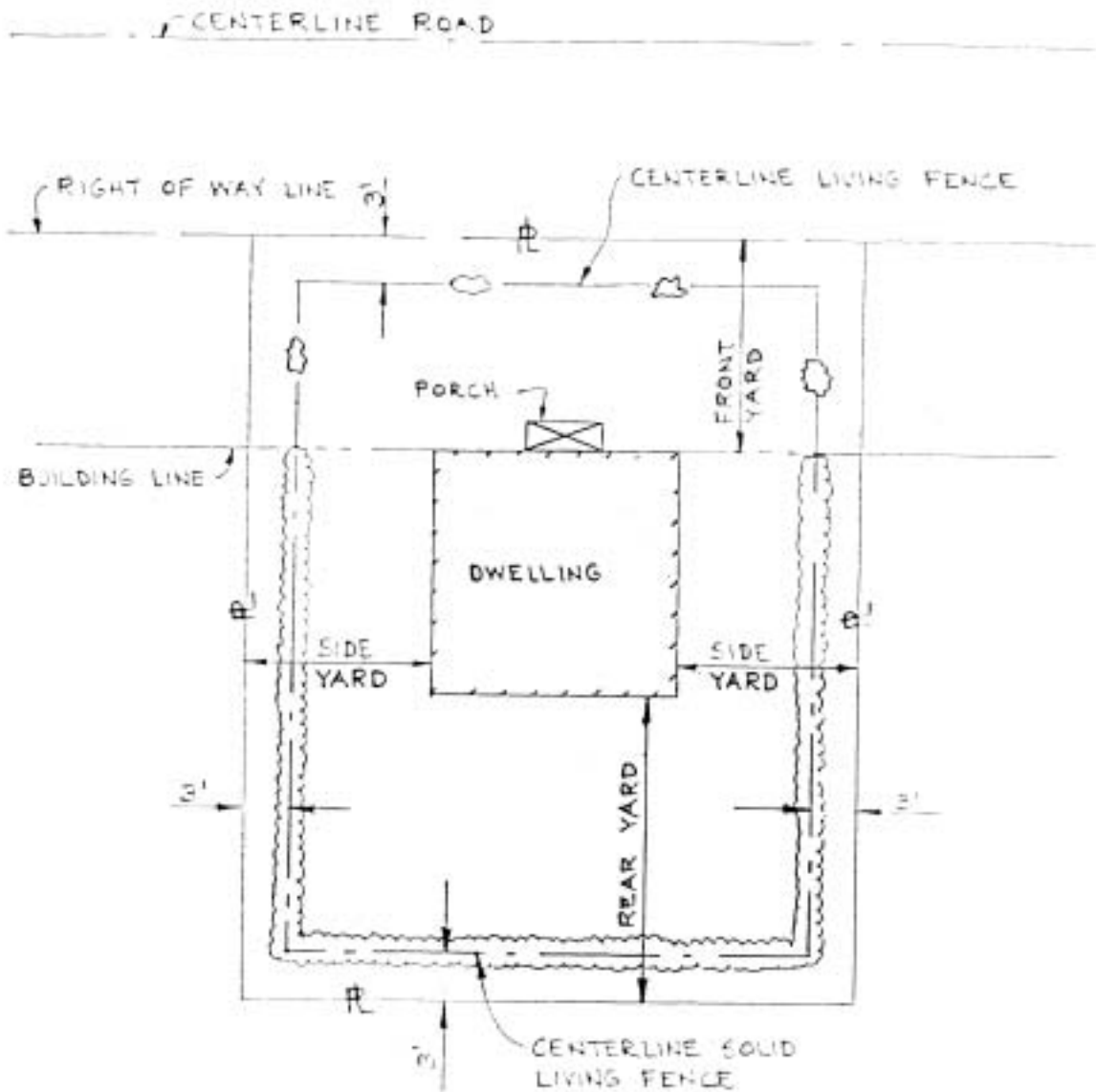
CHAIN LINK FENCE PLAN



PL = PROPERTY LINE
MAX. = MAXIMUM
—X— FENCE

PRIVACY FENCE PLAN

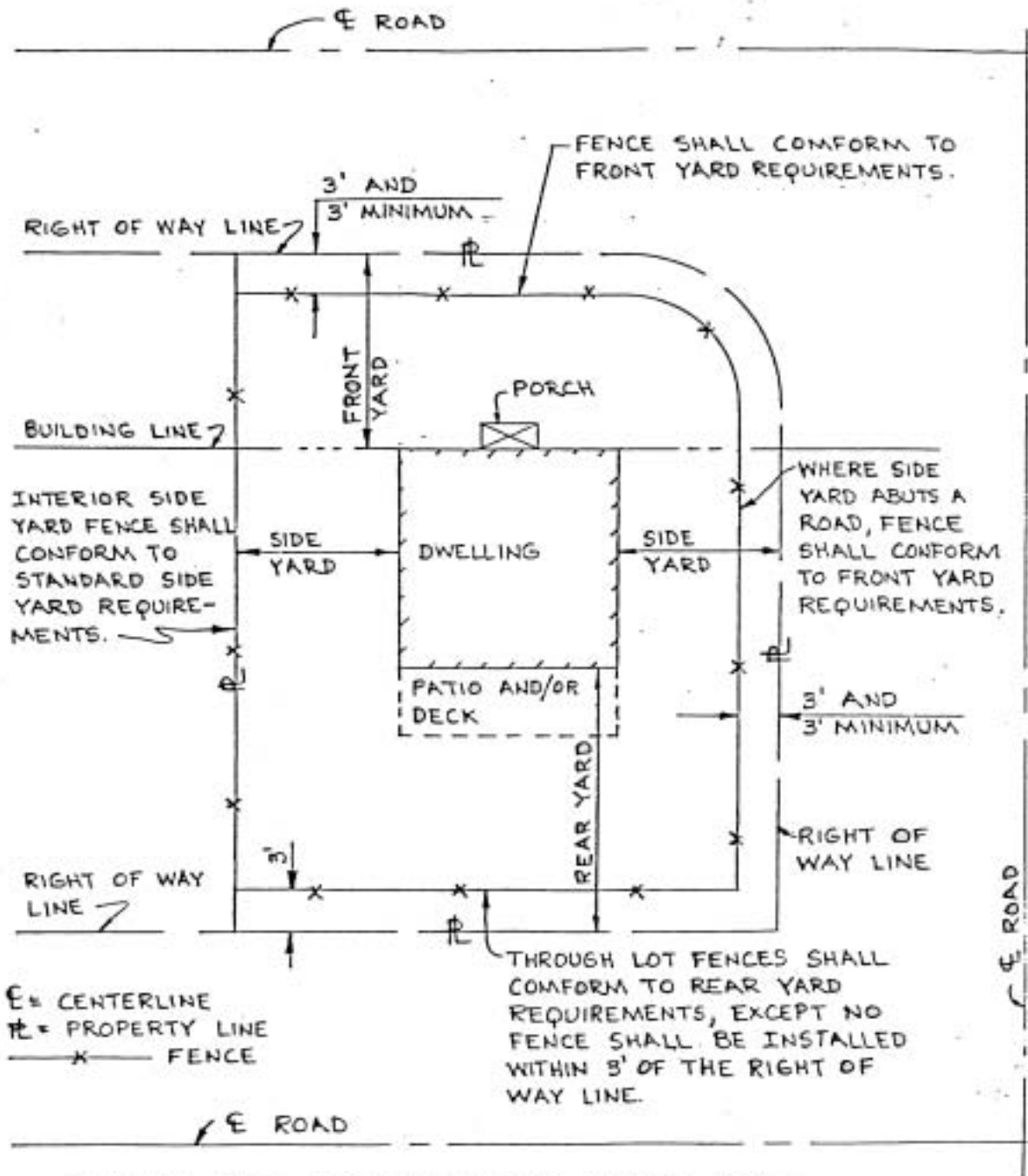
APPENDIX D



P = PROPERTY LINE

LIVING FENCE PLAN

APPENDIX E



CORNER AND THROUGH LOTS FENCE PLAN

VILLAGE OF BUTLER
P.O. BOX 307
BUTLER, OHIO

APPLICATION FOR ZONING CERTIFICATE

APPLICATION No. _____

The undersigned applies for a zoning certificate for the following use, said certificate to be issued on the basis of the information contained within this application. The applicant hereby certifies that all information and attachments to this application are true and correct. The applicant is required, in addition to the information requested on this form to submit plans, drawn to scale of not less than ten (10) feet to the inch, showing actual dimensions and shape of the lot, exact sizes and locations of existing buildings on the lot, and the location and dimensions of the proposed buildings and alterations.

1. **Applicant's Name:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
2. **Property Owner:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
3. **Location of Property:** _____
4. **Existing Use:** _____
5. **Property Presently Zoned As:** _____
6. **Proposed Use:**
New Construction _____ Business _____
Remodeling _____ Industry _____
Accessory Building _____
Residence _____ No. of Units _____ Other (Explain) _____

(If proposed use is business or industry enclose a detailed description of the nature of the business or industry.)
7. **Type of Sewage Disposal:** _____
8. **Lot:** Width _____ Lot Depth _____ Lot Area _____
9. **Square Feet:** of Living Area (Residence) _____ sq. ft.
Garage _____ Basement _____ Accessory Bldg. _____
Commercial _____ Industrial _____ Office _____
10. **Building Heights:** Stories _____ Feet _____

- 11. **Yard Dimensions:** Front _____ Rear _____
One Side _____ Sum of Side Yards _____
- 12. **Accessory Building Dimensions:** Height _____ Dimensions _____
- 13. **Number of Off-Street Parking Spaces to be Provided:** _____
- 14. **Number of Off-Street Loading Berths to be Provided:** _____
- 15. On a separate sheet attach a list of other supplemental requirements or conditions that will be met, or explain any points you feel need clarification.

Note: This certificate shall be void if work is not started within one year or completed within 2½ years.

_____ **Date** _____ **Applicant**

(For Official Use Only)

Date Filed: _____ **Fee Paid:** _____

Action of Zoning Inspector on Application: Approved _____ Denied _____

If application denied, reason for denial: _____

_____ **Date** _____ **Zoning Inspector**

VILLAGE OF BUTLER
P.O. BOX 307
BUTLER, OHIO

APPLICATION FOR APPEAL

APPLICATION No. _____

- A. **Applicant's Name:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
- B. **Property Owner:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
- C. **Location of Property:** _____

The undersigned requests review of the decision by the Zoning Inspector of **Application for Zoning Certificate No.** _____, denied (issued) on _____, 20___. It is the applicant's contention that the following error was made in the determination of the Zoning Inspector:

_____ **Date** _____ **Applicant**

(For Official Use Only)

Date Filed: _____

Date of Notice to Parties in Interest: _____

Date of Notice in Newspaper: _____

Date of Public Hearing: _____

Fee Paid: _____

Decision of Village Planning Commission: Approved _____ Denied _____

If Approved the following conditions and safeguards were prescribed:

1. _____
2. _____
3. _____

- 4. _____
- 5. _____
- 6. _____

If Denied, reasons for denial _____

Date

Village Planning Commission Chairman

VILLAGE OF BUTLER
P.O. BOX 307
BUTLER, OHIO

APPLICATION FOR VARIANCE

APPLICATION No. _____

1. **Applicant's Name:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
2. **Property Owner:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
3. **Location of Property:** _____
4. **Nature of Variance:** Describe generally the nature of the variance _____

In addition, plans, drawn to scale must accompany this application showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic peculiarities of the lot in question.

5. **Justification of Variance:** In order for a variance to be granted, the applicant must prove to the Village Planning Commission that the following items are true: (Please attach these comments on a separate sheet)
 1. Special conditions exist peculiar to the land or building in question; and
 2. that a literal interpretation of the ordinance would deprive the applicant of rights enjoyed by other property owners; and
 3. that the special conditions do not result from previous actions of the applicant; and
 4. that the requested variance is the minimum variance that will allow a reasonable use of the land or buildings.

I certify that the information contained in this application and supplements is true and correct.

_____ **Date** _____ **Applicant**

(For Official Use Only)

Date Filed: _____ Fee Paid: _____

Decision of Village Planning Commission: Approved _____ Denied _____

If application denied, reason for denial: _____

Date

Village Planning Commission Chairman

VILLAGE OF BUTLER
P.O. BOX 307
BUTLER, OHIO

APPLICATION FOR CONDITIONAL ZONING CERTIFICATE

APPLICATION No. _____

The undersigned request a conditional zoning certificate for the use specified below. Should this application be approved, it is understood that it shall only authorize that particular use described in this application and any conditions or safeguards required by the Village Planning Commission.

1. **Applicant's Name:** _____

Mailing Address _____

Phone No.: Home _____ Business _____

2. **Property Owner:** _____

Mailing Address _____

Phone No.: Home _____ Business _____

3. **Location of Property:** _____

4. **Existing Use:** _____

5. **Description of Conditional Use:** _____

6. **Supporting Information:** Attach a site plan, plot plan or development plan of the entire property being considered, drawn at a scale of 1" = 100' and showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their intended use.

I certify that the information contained in this application and supplements is true and correct.

_____ **Date** _____ **Applicant**

(For Official Use Only)

Date Filed: _____

Fee Paid: _____

Decision of Village Planning Commission: Approved _____ Denied _____

Approval is subject to the following conditions: _____

Date

Village Planning Commission Chairman

VILLAGE OF BUTLER
P.O. BOX 307
BUTLER, OHIO

APPLICATION FOR ZONING AMENDMENT

APPLICATION No. _____

The undersigned hereby applies for the following amendment to Village of Butler, Ohio Zoning Ordinance:

1. **Applicant's Name:** _____

Mailing Address _____

Phone No.: Home _____ Business _____

2. **Property Owner:** _____

Mailing Address _____

Phone No.: Home _____ Business _____

3. **Application to:** Re-Zone Land _____ Amend Text _____

4. **If to Re-Zone Land:**

Current Zoning District _____

Proposed Zoning District _____

Legal Description and address of property _____

5. **If to Amend Text:**

Section or Sections to be amended _____

Text of proposed amendment(s) _____

I certify that the information contained in this application and supplements is true and correct.

_____ **Date** _____ **Applicant**

(For Official Use Only)

Date Filed: _____

Date of Notice to Parties In Interest: _____

Date of Notice to Newspapers: _____

Date of Public Hearing: _____

Fee Paid: _____

Decision of Village Planning Commission: Approved _____ Denied _____

If Approved with modifications the following modifications were prescribed _____

If Denied, reasons for denial _____

Date
Village Planning Commission Chairman

Date Village Council Received: _____

Date of Notice to Parties In Interest: _____

Date of Notice to Newspapers: _____

Date of Public Hearing: _____

Decision of Village Council: Approved _____ Denied _____

If Approved with modifications the following modifications were prescribed _____

If Denied, reasons for denial _____

Date
Village Council Chairman

VILLAGE OF BUTLER
P.O. BOX 307
BUTLER, OHIO

APPLICATION FOR SIGN CERTIFICATE

APPLICATION No. _____

1. **Applicant's Name:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
2. **Property Owner:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
3. **Location of Property:** _____
4. **Licensed Sign Erector's Name:** _____
Mailing Address _____
Phone No.: _____
5. **Description of Sign (size, materials, height):** _____

6. **Diagram:** Attach a diagram of the proposed sign and its location on the property.

I certify that the information contained in this application and supplements is true and correct.

_____ **Date** _____ **Applicant**

(For Official Use Only)

Date Received: _____ **Fee Paid:** _____

Action of Zoning Inspector on Application: Approved _____ Denied _____

If application denied, reason for denial: _____

_____ **Date** _____ **Zoning Inspector**

VILLAGE OF BUTLER
P.O. BOX 307
BUTLER, OHIO

APPLICATION FOR FENCE CERTIFICATE

APPLICATION No. _____

1. **Applicant's Name:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
2. **Property Owner:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
3. **Location of Property:** _____
4. **Type of Fence (Privacy, Open Ornamental, Chain Link, Shrubbery, Hedge, Etc):**

5. **Description of Fence (materials, height):** _____

6. **Diagram:** Attach a diagram of the proposed fence and its location on the property.

I certify that the information contained in this application and supplements is true and correct.

_____ **Date** _____ **Applicant**

(For Official Use Only)

Date Received: _____ **Fee Paid:** _____

Action of Zoning Inspector on Application: Approved _____ Denied _____

If application denied, reason for denial: _____

_____ **Date** _____ **Zoning Inspector**

VILLAGE OF BUTLER
P.O. BOX 307
BUTLER, OHIO

APPLICATION FOR SWIMMING POOL CERTIFICATE

APPLICATION No. _____

1. **Applicant's Name:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
2. **Property Owner:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
3. **Location of Property:** _____
4. **Description of Swimming Pool (size, recessed, elevated):** _____

5. **Diagram:** Attach a diagram of the proposed swimming pool and its location on the property, including setbacks from property lines.

I certify that the information contained in this application and supplements is true and correct.

_____ **Date** _____ **Applicant**

(For Official Use Only)

Date Received: _____ **Fee Paid:** _____

Action of Zoning Inspector on Application: Approved _____ Denied _____

If application denied, reason for denial: _____

_____ **Date** _____ **Zoning Inspector**

VILLAGE OF BUTLER
P.O. BOX 307
BUTLER, OHIO

APPLICATION FOR NON-CONFORMITY CERTIFICATE

APPLICATION No. _____

1. **Applicant's Name:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
2. **Property Owner:** _____
Mailing Address _____
Phone No.: Home _____ Business _____
3. **Location of Use, Structure, or Lot for which non-conformity certificate is sought:**
Address _____
Lot No. _____ Zoning District _____
4. **Section(s) of Ordinance Involved:** _____
5. **Explain in Detail the Non-Conformity:** _____

If more space is needed attach separate sheet, if it will help in explanation, site plan may be included.

I certify that the information contained in this application and supplements is true and correct.

_____ **Date** _____ **Applicant**

(For Official Use Only)

Date Received: _____

Action of Zoning Inspector on Application: Approved _____ Denied _____

If application denied, reason for denial: _____

Date

Zoning Inspector