

## **CHAPTER 1 GENERAL PROVISIONS**

### **1.0 Preamble**

An ordinance of the Village of Greenhills enacted in accordance with a land use plan and for the purpose of promoting the public health, safety, morals, convenience, and general welfare establishing land use classifications, dividing the Village into districts, imposing regulations, restrictions, and prohibitions on the use and occupancy of real property limiting the height, area, and bulk of buildings and other structures and providing for yards and other open spaces around them establishing standards of performance and design and providing for the administration and enforcement thereof.

### **1.1 Title**

This Ordinance shall be known and may be cited and referred to as the Zoning Code of the Village of Greenhills, Ohio.

### **1.2 Interpretation of Standards**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Wherever this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this Chapter shall govern.

### **1.3 Separability**

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

### **1.4 Rules for Text Interpretation**

In the interpretation of the text of this Ordinance, the rules of interpretation contained in this Section shall be observed and applied, except when the context clearly indicates otherwise. The following rules shall apply to the text:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text and any table, the text shall control.
- C. The word "shall" shall be mandatory and not discretionary. The words "may" or "should" shall be permissive.

- D. 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.
- E. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".

## 1.5 Adult Entertainment Provisions

In adopting all of the provisions pertaining to Adult Entertainment Facilities set forth in the Zoning Code, the Council of the Village of Greenhills hereby states as follows:

- A. All such provisions are adopted to protect the public peace, health, safety, and general welfare.
- B. All such provisions are adopted to combat the harmful secondary effects associated with Adult Entertainment Facilities. The Village hereby recognizes and specifically relies upon the studies of the harmful secondary effects of Adult Entertainment Facilities, and all other recitations of those secondary effects, set forth in the United States Supreme Court's decisions in Renton v. Playtime Theatres, 475 U.S. 41 (1986), Young v. American Mini Theatres, Inc., 427 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and all other applicable case law. See City of Erie v. Pap's A.M., \_\_\_ U.S. \_\_\_ (2000). Based on its review of those decisions and its familiarity with the Village as a whole, Council believes that the harmful secondary effects set forth in the foregoing decisions are relevant to the Adult Entertainment Facilities which the Village regulates in this Zoning Code.
- C. Council finds that the harmful secondary effects associated with Adult Entertainment Facilities are detrimental to the public peace, health, safety, and general welfare.
- D. No such provision is adopted to regulate, limit, or suppress the content or flow of speech or free expression. Any limitation on speech or expression which results from the provisions of this Zoning Code's regulation of Adult Entertainment Facilities is unintended and purely incidental to the Village's attempt to combat the harmful secondary effects of Adult Entertainment Facilities.

## CHAPTER 2 DEFINITIONS

### 2.0 Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### **Adult Entertainment Facility**

- A. An Adult Entertainment Facility is hereby defined to include any of the following listed and defined facilities:
1. "Adult arcade" -- an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, including computers or Internet transmitting devices, for viewing by five or fewer persons each, are used to show films, 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."
  2. "Adult bookstore," "adult novelty store," or "adult video store" -- a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:
    - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations including computer-related material, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;"
    - b. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others;
    - c. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas", and still be categorized as an "adult bookstore," "adult novelty store," or "adult video store." Such other business purposes will not serve to exempt such establishments from being categorized as such so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."
  3. "Adult cabaret" -- a nightclub, bar, restaurant, bottle club, or similar commercial

establishment, whether or not alcoholic beverages are served, which regularly feature persons who appear in a state of nudity or semi-nudity, expose their "specified anatomical areas," or depict or describe "specified sexual activities."

4. "Adult motel" -- a motel, hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, 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" and which advertises the availability of this sexually oriented type of material; or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.
5. "Adult motion picture theater" -- a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.
6. "Adult theater" -- a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity, expose their "specified anatomical areas," or depict or describe "specified sexual activities."
7. "Escort" -- a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
8. "Escort agency" -- 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. "Massage parlor" -- any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specific sexual activities," or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of Adult Entertainment Facility shall not include the practice of massage in any licensed hospital or by a licensed hospital, by a licensed physician, surgeon, chiropractor or osteopath, by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, or by any massage therapist or technician board certified by the State of Ohio.
10. "Semi-nude model studio" -- any place where a person, who regularly appears in a state of semi-nudity or displays "specified anatomical areas," is provided for money

or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

11. "Sexual encounter establishment" -- a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or activities for the purpose of exposing any person's "specified anatomical areas." The definition of Adult Entertainment Facility shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Ohio engages in medically approved and recognized sexual therapy.

12. To the extent not defined above, an Adult Entertainment Facility includes any establishment involved in the sale or rental of services or products characterized by the exposure or presentation of "specified sexual activities" or "specified anatomical areas", and which is characterized by salacious conduct appealing to the prurient interest for the observation or participation in by patrons. Services for products included within the scope of an Adult Entertainment Facility include dancing, and any activity listed above or of the same character thereto.

B. "Establishment" means and includes any of the following:

1. the opening or commencement of any business as a new business;
2. the conversion of an existing business, whether or not an Adult Entertainment Facility, to any of the Adult Entertainment Facilities defined herein;
3. the addition of any of the Adult Entertainment Facilities defined herein to any other business;
4. the relocation of any Adult Entertainment Facility;
5. a business or other physical structure to which the general public, or certain segments thereof, is invited to partake in the activities provided therein.

C. "Nudity" or "state of nudity" means: (a) the appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast. Semi-nudity means that state of dress where only the foregoing areas are covered fully and opaquely.

D. "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

E. "Specified anatomical areas" means and includes any of the following: less than completely and opaquely covered human genitals, pubic region, buttocks, female

breasts below a point immediately above the top of the areola; and male genitals in a discernibly turgid state even if completely and opaquely covered.

- F. "Specified sexual activities" means and includes any of the following: the fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts; actual or simulated sex acts, including without limitation sexual intercourse, oral copulation, or sodomy; actual or simulated masturbation; human genitals in a state of sexual stimulation or arousal; or excretory functions done in connection with any of the foregoing activities.
- G. "Salacious conduct appealing to the prurient interest" is limited to the meaning given to it by applicable case law, including Brockett v. Spokane Arcades, 472 U.S. 491 (1985) and related case law. "Salacious conduct appealing to the prurient interest" does not include a protected normal interest in sex as set forth in Brockett and related cases, but includes an abnormal, shameful, or morbid interest in sex.

**Agriculture.** Agriculture is the use of land for agricultural purposes, including farming of crops, horticulture, floriculture, viticulture, and the necessary accessory uses for packing, treating, or storing the produce; however, the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

**Alley.** An alley shall mean any public or private thoroughfare less than thirty (30) feet wide affording only secondary means of access to abutting properties.

**Animal Hospital or Veterinarian Clinic.** An animal hospital or veterinarian clinic is a building used for the medical treatment, housing or boarding of domestic animals such as dogs, cats, rabbits and birds by a veterinarian.

**Apartment.** See *Dwelling, Multi-family*.

**Automotive Service.** Automobile service is any general repair, rebuilding, reconditioning, body or fender work, framework, painting or the replacement of parts to motor vehicles or trailers.

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

**Automotive Filling Station.** An automobile filling station is any building, or land area used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use, the sale and installation of lubricants, tires, batteries and similar accessories.

**Automotive Wash or Automatic Car Wash.** An automotive car wash is a building or structure where chain conveyors, blowers, steam cleaners, or other mechanical devices are employed for the purpose of automatically or manually washing motor vehicles.

**Automotive Wrecking Yard.** An automotive wrecking yard is the dismantling or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts.

**Basement.** A basement is a story partly underground and having at least one-half of its height above the average adjoining grade.

**Bed and Breakfast Establishment.** A bed and breakfast establishment is any owner occupied dwelling unit that contains no more than four rooms where lodging, with or without meals, is provided for compensation.

**Block.** In describing the boundaries of a district the word **Block** refers to the legal description. In all other cases the word **Block** refers to the property abutting on one side of a street between two intersecting streets or a street and a railroad right-of-way or watercourse.

**Board.** The Board of Zoning Appeals of the Village of Greenhills.

**Building.** A building shall mean any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or property.

**Building, Height.** The height of a building shall mean the vertical distance from the average contact ground level of all sides of the building to the highest point of the coping of a flat roof or to the deck line of mansard roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs.

**Building Line.** The building line shall be the line, parallel to the street line, beyond which no building or part thereof shall project.

**Buildable Lot Area.** The buildable lot area is the portion of a lot remaining after required yards have been provided.

**Bulk Storage or Display.** Bulk storage or display shall mean the display of two or more items which are identical or nearly identical examples of which would include but are not limited to raw materials, firewood, mulch, fertilizer, building materials, building maintenance products, packaged food products, soft drinks, salt products, furniture and household goods, statuary and other manufactured concrete products, and like items.

**Carport, Attached.** An attached accessory shelter building, customarily used for the shelter or storage of personal vehicles, consisting of a roof attached to the principal residential structure and supported by poles at its corners and open on three sides.

**Carport, Detached.** A detached manufactured accessory building, customarily used for the shelter or storage of personal vehicles, which can be easily moved without disassembly and which is generally a frame covered by a lightweight membrane material.

**Cellar.** A cellar is an enclosed space within the foundation walls of a building and having more than one-half of its height below the average surrounding ground levels.

**Cellular or Personal Communications Antenna.** Any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers or other personal communications devices and ground-wired communications systems including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips and other equipment utilized to service personal communication services.

**Cellular Communications/Personal Communications Services Sites.** A tract, lot or parcel of land that contains the cellular communications tower, antenna, support structure(s), parking and any other uses associated with and ancillary to cellular communications and personal communications services transmissions.

**Cellular Communications/Personal Communications Services Support Structure.** Any building or structure accessory to, but necessary for the proper functioning of the cellular or personal communications antenna or tower.

**Cellular/Personal Communications Services Tower.** Any freestanding structure used to support a cellular or personal communications services antenna.

**Cellular/Personal Communications Services Tower, Height.** The height from the base of the structure to its top; including any antenna located thereon.

**Cemetery.** A cemetery is land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbarium, crematories, mausoleums, and mortuaries, if operated in connection with, and within the boundaries of, such cemetery.

**Clinic.** A clinic shall mean a place where humans receive care, diagnosis, and treatment for sicknesses, ailments, and injuries or are in need of medical or surgical attention, but who are not provided with board or room nor kept overnight on the premises.

**Club.** A club shall mean a nonprofit association of persons who are bona fide members paying regular dues, and are organized for some common purpose, but excluding religious places of worship or a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

**Commercial Communication Antenna.** A commercial communication antenna is a tower, pole or other similar device, erected on the ground or roof top, for the purpose of transmitting or receiving radio, micro, cellular, or other electromagnetic waves between terrestrially and/or orbitally based uses.

**Commission.** The Village Planning Commission of the Village of Greenhills, Ohio.

**Community Garden.** "Community garden" means an area of land managed and maintained by a group of individuals to grow and harvest food crops and/or nonfood,

ornamental crops, such as flowers, primarily for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

**Cold-frame.** "Cold-frame" means an unheated outdoor structure consisting of a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

**Convalescent Care Facility.** A convalescent care facility shall mean a building or group of buildings, public or private, which provides personal care or nursing to ill, physically infirm or aged persons who are not related by blood or marriage to the operator.

**Coop and Cage.** "Coop" and "cage" mean a structure, not necessarily attached to the ground, with a top and sides and designed to provide shelter and protection for small animals or birds.

**Council.** The Village Council of the Village of Greenhills, Ohio.

**Court.** A court is an open unoccupied, and unobstructed space, other than a yard, on the same lot with a building or group of buildings, which is enclosed on three or more sides fully open to the sky.

**Day Care, Adult.** A place that provides community based programs designed to meet the health, social and related needs of functionally impaired adults during daytime hours.

**Day Care Center, Child.** Any place in which child day care is provided, with or without compensation, for thirteen (13) or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day care is provided, with or without compensation, for seven (7) or more children at one time or four (4) or more children under two years of age at one time. For the purposes of this definition, any children under six years of age who are related to the provider of child day care and who are on the premises shall be counted.

**Day Care Type "A".** A permanent residence of the administrator in which child day-care is provided for seven (7) to twelve (12) children at one time or for four (4) to twelve (12) children at one time if for the latter no more than four (4) children are under two years of age. Any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted.

**Day Care Type "B".** A Type "B" family day-care home is a permanent residence of the provider where child care is provided for 1 to 6 children and where no more than three children are under two years of age. For the purpose of this definition, any children under six years of age who are related to the provider and who are on the premises of the day-care home shall be counted.

**District.** A district is a portion of the territory of the Village, within which certain uniform

regulations and requirements or various combinations thereof apply under the provisions of this chapter.

**Drive-in Facility.** A drive-in facility shall be any portion of a building or structures from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

**Dwelling.** A dwelling is any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more families, but not including a tent, cabin, trailer or trailer coach, boarding or rooming house, hotel, or mobile home.

**Dwelling, Multi-family.** A multi-family dwelling is a building or portion thereof designed for or used by three or more families or housekeeping units, living independently of each other, with cooking and sanitary facilities in each dwelling unit.

**Dwelling, Secondary.** A secondary dwelling shall mean the addition of a second independent dwelling, attached or detached to the primary single family dwelling, housing a relative related by blood or marriage on the same lot.

**Dwelling, Single-family Detached.** A single family dwelling is a building designed for or used exclusively for residence purposes by one family or housekeeping unit.

**Dwelling, Two-family.** A two-family dwelling is a building designed for or used exclusively by two families or housekeeping units, living independently of each other, with cooking and sanitary facilities in each dwelling unit.

**Educational Institution.** An educational institution is a facility that provides a curriculum of elementary or secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools and technical and collegiate level courses.

**Enclosure.** "Enclosure" means a set of walls or fences designed to confine animals or birds to a space that is large enough to permit the animals and birds to roam relatively freely in an open yard area.

**Entertainment Establishment.** Any establishment (indoors or outdoors) where entertainment, either passive or active, is provided for the pleasure of the patrons, either independent or in conjunction with any other use. Such entertainment includes but is not limited to vocal and instrumental music, dancing, karaoke, comedy, and acting and in no case shall such entertainment include any use defined as, or permitted within, an Adult Entertainment Facility.

**Essential Services and Utilities.** Essential services and utilities are the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith;

reasonably necessary for the furnishing of adequate service by such public health, safety, or general welfare.

**Exotic wildlife.** Indigenous or non-indigenous wildlife, including those animals that could be considered dangerous but not limited to lions, tigers, ocelots, jaguars, leopards, mountain lions, cheetahs, lynx, bobcats, jaguarondi, bears, hyenas, wolves or coyotes, or any life-threatening reptiles and arachnids, including but not limited to crocodilians, poisonous reptiles and tarantulas.

**Family.** Family shall mean one or more individuals living together as a single housekeeping unit in a dwelling, and maintaining and using the same and certain other housekeeping facilities in common.

**Fence.** A fence shall mean an artificial barrier or divider intended to prevent escape or intrusion, to mark a boundary, or to enclose an area.

**Financial Institution.** A financial institution is any building, property or activity of which the principal use or purpose of which is the provision of financial services including but not limited to banks, facilities for automated teller machines (ATM's), credit unions, savings and loan institutions and mortgage companies.

**Flyway Barrier.** A "Flyway barrier" is a solid fence or hedge, designed to redirect the flight of bees to a height above typical human activity.

**Floor Area.** The floor area is the sum of the gross horizontal areas of each floor of the principal building, measured from the exterior walls or from the center line of party walls, including the floor area of accessory buildings and structures.

**Floor Area Ratio.** Floor area ratio is the total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

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

**Frontage, Where Measured.** The frontage of a lot shall be measured along the front property line.

**Funeral Home.** A funeral home shall mean any dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

**Garage, Private.** A private garage shall mean a detached accessory building or a portion of the principal building used only for the storage of automobiles or trailers by the family resident on the premises.

**Garage, Public.** A public garage shall mean a structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair, or refinishing of automobiles or trailers.

**Greenhouse.** "Greenhouse" means a building made of glass, plastic, or fiberglass in which plants are cultivated.

**Group Home.** A group home means any licensed residential facility designed to allow not more than eight (8) persons, needing specialized care, counseling, ongoing medical treatment or supervision to live in the same building or complex of buildings and engage in some congregate activity in a non-institutional environment.

**Hedge.** A hedge is a growth of shrubbery planted to function as a boundary or fence.

**Home Occupation.** Any occupation or profession conducted entirely within a dwelling and carried on by the inhabitants thereof, and which is an accessory use clearly incidental and secondary to the use of the structure for dwelling purposes in connection with which there is no display that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Home occupations shall not include any retail or wholesale business of any kind or any similar intensity of activities regardless of remuneration involving in-person transactions on the premises.

**Hoophouse.** "Hoophouse" means a structure made of PVC piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape.

**Hospital.** A hospital is an institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices that are an integral part of the facilities.

**Hotel.** A hotel is a facility, with room entrances accessed through an interior corridor, offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

**Impervious Surface Ratio.** The impervious surface ratio is a measure of the intensity of land use that is determined by dividing the total area of all impervious surfaces on the site by the area of the site or lot.

**Industry.** Industry is any storage, manufacture, preparation, or treatment of any article, substance or commodity for commercial use.

**Kennel.** A kennel is any lot or premises on which more than four domesticated animals more than four months of age are housed, groomed, bred, boarded, trained, sold, or which offers provisions for minor medical treatment.

**Kitchen.** Any room in a building or dwelling unit which is used for cooking or preparing

food.

**Land Use Plan.** The land use plan of the Village of Greenhills as adopted by Village Council as part of its Comprehensive Plan indicating the desirable use of land in the Village as officially adopted and as amended by the Village Planning Commission. The purpose of such plan is to serve as a guide in the review of zoning changes and to aid in the acquisition of rights-of-way or sites for public purposes such as streets, parks, public buildings or other municipal uses.

**Livestock.** Hoofed mammals, including but not limited to horses, cattle, sheep, swine, goats, bison, llamas, and other species typically raised for food, fiber or draft. Also includes domestic fowl and game birds.

**Loading Space.** A loading space shall mean an off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

**Lot.** A lot is a piece or parcel of land occupied or intended to be occupied by a principal building or a group of buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces required by this chapter, and having frontage on a public street.

**Lot Area.** Lot area is the computed horizontal area contained within the lot lines.

**Lot, Corner.** A corner lot is a lot abutting on two or more streets at their intersection or on two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.

**Lot Depth.** Lot depth is the average horizontal distance between the front and the rear lot lines.

**Lot Line, Front.** The front lot line is the line separating the lot from the street on which it fronts.

**Lot, Interior.** The interior lot is a lot other than a corner lot and with frontage on one street.

**Lot Lines.** Lot lines are the property lines bounding the lot.

**Lot Line, Rear.** The rear lot line is the lot line opposite and most distant from the front lot line.

**Lot Line, Side.** The side lot line is any lot line other than a front or rear lot line.

**Lot Line, Street or Alley.** A street or alley lot line is a lot line separating the lot from a vehicular public or private right-of-way.

**Lot of Record.** A lot of record is a lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Hamilton County, Ohio, or a lot described by metes and bounds, the description of which has been recorded in such office.

**Lot, Through.** A through lot is a lot having frontage on two parallel or approximately parallel streets.

**Lot Width.** The lot width is the width of the lot measured at right angles to the building setback lines.

**Manufacturing.** Manufacturing is the process of making or fabricating raw materials by hand, machinery or the combination thereof into finished parts or products.

**Motel.** A motel is a facility, with exterior room entrances, offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

**Non-conforming Use.** See definition **Use, Non-conforming**.

**Office.** An office is a building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations.

**Open Space.** Open space is land used for resource protection, recreation, amenity and/or buffers.

**Parking Area, Private.** A private parking area shall mean an open area for the same uses as a private garage.

**Parking Area, Public.** A public parking area shall mean an open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free, or as an accommodation for clients or customers.

**Parking Space.** A parking space shall mean a permanently surfaced area of not less than 162 square feet and having a width of not less than 9 feet and a length of not less than 18 feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of motor vehicles.

**Personal Services.** Personal services are activities conducted in an office, store or other place of business catering to the personal needs of a customer, such as normally conducted by a barber, beautician, tailor, dressmaker, doctor, attorney, architect or a photocopy duplication center.

**Pet, Household.** Domesticated animals that share the same domicile or premises with humans; are dependent upon humans for food, water and shelter; and are kept as companions or as service animals, including but not limited to dogs, cats, caged birds of a variety of species, rodents, rabbits, and nonpoisonous reptiles and amphibians, that are

not included in the definitions of livestock and exotic wildlife.

**Predatory Bird.** "Predatory bird" means an owl, hawk, falcon, eagle or similar bird that feeds principally by catching living prey.

**Portable Storage Container.** A moving and storage service whereby the company delivers and leaves a storage container on-site for the customer to pack. The storage container is then picked up and moved to a company warehouse or the customer's destination for unpacking and subsequent removal.

**Printing and Related Trades.** Printing and related trades shall mean an establishment that provides duplicating services using photocopy, blueprint and/or offset printing equipment including the collating of booklets and reports. Printing and related trades shall not include copy service centers or self-service copy centers that primarily utilize photocopy machines as their source of duplication.

**Public Building.** A public building is a structure or portion of a structure owned, operated or controlled by a government agency for the performance of certain specialized governmental activities required for day to day functions.

**Recreation, Active.** Active recreation shall mean the improvement of the land, open to the general public which provides facilities serving the recreational needs of the community. Active recreational areas shall include, but are not limited to: swimming pools, athletic fields, tennis courts, amphitheaters, community centers, and playgrounds.

**Recreation, Commercial.** Commercial recreation is land or facilities operated as a business and are open to the general public for a fee that shall include, but is not limited to: rollerblade rental, billiard parlors, video amusement arcades, pay-to-play athletic fields, golf courses, ice skating rinks or swimming pools.

**Recreation, Non-commercial.** Non-commercial recreation is any land or facility operated by a governmental agency or non-profit organization and open to the public or members of the non-profit organization without a fee that shall include but is not limited to: picnic areas, bike/hike trails, public golf courses, athletic fields or swimming pools.

**Recreation, Passive.** Passive recreation shall mean the use of unimproved land, in its natural state and open to the general public, which provides for a variety of activities for the outdoor exercise and activity needs of the community. Passive recreational areas shall include, but are not limited to: unimproved backpacking trails, unimproved hiking trails, primitive camping areas, canoeing, swimming, rafting, scientific and scholastic studies. Lands may be improved for handicapped access.

**Religious Places of Worship.** A religious place of worship is an institution that a congregation of people regularly attends to participate in or hold religious services, meetings and other activities, including buildings in which the religious services of any denomination are held.

**Research and Development Laboratory.** A research and development laboratory shall mean a building in which scientific research, investigation, testing or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental to the main purpose of the laboratory.

**Restaurants.** A restaurant is an establishment with table services whose principal business is the selling of unpackaged food and beverages to the customer in a ready to consume state, in individual servings, or in non-disposable containers, provided that no drive-through window may be permitted.

**Restaurant/Fast Food.** A fast food restaurant is an establishment whose principal business is the sale of prepared or rapidly prepared food, in disposable containers and without table service, directly to the customer in a ready-to-consume state.

**Retail Business.** A retail business shall mean any business selling goods, wares or merchandise directly to the ultimate consumer for direct consumption and not for resale.

**Right-of-way.** A right-of-way (ROW) is land dedicated to or owned by the public for use as a roadway, walk or other way.

**Roadside Stand.** A roadside stand shall mean a temporary business use devoted strictly to the sale of seasonal agricultural and horticultural products to the general public located in a wholly or partially enclosed structure.

**Satellite Dish.** A satellite dish is a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn or tower. Such device shall be used only to receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. Satellite dishes include but are not limited to TVRO's (television reception only satellite dish antennas) and satellite microwave antennas.

**Setback.** The setback is the required minimum horizontal distance between the building line and the related front, side or rear property line.

**Shopping Center.** A shopping center is a grouping of retail and service uses on a single site that is developed as a unit with off-street parking as an integral part of the unit.

**Sign.** A sign is an outdoor advertising structure, device or visual communication designed or intended to convey information to the public in written or pictorial form.

**Sign, Aerial.** An aerial sign is any balloon, or other airborne floatation device which is tethered to the ground or to a building or other structure which directs attention to a business, commodity, service, or entertainment conducted, sold or offered.

**Sign, Construction.** A construction sign is a temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

**Sign, Directional.** A directional sign is any on-premise sign giving directions, instructions, or facility information but shall not contain the name or logo of an establishment nor any advertising copy.

**Sign, Freestanding.** A freestanding sign is any permanent sign not attached to a building. This shall include signs attached to poles and signs attached directly to the ground.

**Sign, Ground Mounted.** A ground mounted sign is any freestanding sign, other than a pole mounted sign, independently supported by the ground or mounted on a decorative wall or fence.

**Sign, Informational.** An informational sign is any off-premises sign located in the public right-of-way that is intended to direct vehicular or pedestrian traffic, giving direction or instructions, but shall not contain any commercial message or advertising copy.

**Sign, Non-conforming.** A non-conforming sign is a sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.

**Sign, Political.** A political sign is a temporary sign which announces the candidacy of a person or slate or persons running for elective office, or a political party or issue.

**Sign, Portable Sandwich Board.** A portable sandwich board is a sign with two display surfaces that is not permanently anchored to the ground or a structure and has a hinged, or A-frame construction that allows the sign to be displayed outdoors only during the hours of operation.

**Sign, Portable.** A portable sign is a sign which is movable and which is not permanently attached to the ground, a structure or other signs, and is designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

**Sign, Projecting.** A projecting sign is a sign supported by a building wall or column and extending a distance exceeding twelve (12) inches from the wall.

**Sign, Real Estate.** A real estate sign is a temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

**Sign, Subdivision.** A subdivision sign is any ground mounted or wall sign identifying a recognized subdivision, condominium complex, or residential development.

**Sign, Temporary.** A temporary sign is any sign not constructed or intended for long-term use and is not permanently mounted.

**Sign, Wall.** A wall sign is any sign which is located on or formed by the surface of the wall of a building. A Mansard roof facade on a building shall be considered part of the wall.

**Sign, Window.** A window sign is a sign installed inside a window and intended to be viewed from the outside.

**Sign, Area of.** The area of a sign is the entire area within a continuous perimeter enclosing the extreme limits of the sign display, including any frame or border. The copy of signs composed of individual letters, numerals or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or devices.

**Sign Permit.** A sign permit shall be the official written approval for the creation, erection or construction of a sign issued by the Village of Greenhills.

**Similar Animal.** Any farm animal that is similar to other animals listed in a particular category of permitted animals with respect to impacts on nearby properties, including noise, odors, safety hazards, or other nuisances.

**Site Plan.** A site plan is a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

**Small Farm Animal.** Due to the small lot sizes in the Village of Greenhills, "small farm animal" shall mean ten (10) or less chickens, ducks, rabbits and similar small size species of animal that is kept and raised for use as food or in the production of food. Any animal defined as "exotic wildlife" or a "domestic animal" shall not be considered a "farm animal" for purposes of this Code.

**Solar Panel.** A solar photovoltaic panel, or solar hot air or water panel collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**Standard, Performance.** Performance standards are a criterion established in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases, and other objectionable or dangerous elements generated by and inherent in or incidental to land uses.

**Story.** A story is that portion of a building, included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

**Story, First.** The first story shall mean the lowest story or the ground story of any building, the floor of which is not more than 12 inches below the average contact ground level at the exterior walls of the building except that any basement or cellar used for residence purposes shall be deemed a full story.

**Story, Half.** A half story shall mean a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet

above the floor of such story, provided, that any partial story used for residence purposes shall be deemed a full story.

**Story, Mezzanine.** A mezzanine story shall mean a story which covers one-third or less of the area of the story directly underneath it. A mezzanine story shall be deemed a full story in case it covers more than one-third of the area of the story directly underneath the mezzanine story.

**Street.** A street is a public right-of-way which provides a public means of access for motor vehicles.

**Structure.** A structure shall mean anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

**Structure, Accessory.** See definition *Use, Accessory*.

**Structural Alteration.** Structural alteration shall mean any change in the structural members of a building, such as walls, columns, beams, or girders.

**Swimming Pool.** A swimming pool is any structure located in-ground or above ground containing, or normally capable of containing, water to a depth at any point greater than 24 inches for the purpose of recreation, sports activity, or swimming.

**Tavern.** An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may be available for consumption on the premises.

**Townhouse.** An attached, privately owned single-family dwelling unit which is a part of and adjacent to other similarly owned single-family dwelling units that are connected to but separated from one another by a common party wall having no doors, windows, or other provisions for human passage or visibility.

**Trailer Home or Mobile Home.** (Including *Motor Home, Automobile Trailer, Trailer Coach, or House Trailer*.) A trailer home or mobile home shall mean any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade, or occupation or use as a selling or advertising device, or use for storage or conveyance for goods, equipment, or machinery and so designed that it is or can be mounted on wheels and used as a conveyance on highways and streets propelled or drawn by its own or other motor power.

**Trailer, Educational.** An educational trailer is any trailer, mobile unit, or van that is used exclusively for the purpose of instruction or activities related to instruction by a school of general education.

**Trailer Home Park or Mobile Home Park.** A trailer home park is any lot or part thereof, or any parcel of land which is used or offered as a location for two or more trailers used for

any purpose set forth in *Trailer Home* or *Mobile Home* above.

**Use.** The term use shall mean the purpose for which land or a building or structure is arranged, designed, or intended, or for which either land or a building or structure is, or may be, occupied or maintained.

**Use, Accessory or Accessory Structure.** A use or structure subordinate to the principal use of a building or to the principal use of land, which is located on the same lot as the principal use, and which is serving a purpose customarily incidental to the use of the principal building or land use.

**Use, Conditional.** Conditional use is a use which is permitted in a district only if a Zoning Certificate therefore is expressly authorized by the Planning Commission in accordance with Section 21.2 (C - H).

**Use, Non-conforming.** A non-conforming use is any building, structure, or premises legally existing or used at the time of adoption of this chapter, or any amendment thereto, and which does not conform to the use regulations of the district in which located. Any such building, structure, or premises conforming in respect to use but not in respect to height, area, yards, or courts, or distance requirements from more restricted districts or uses, shall not be considered a nonconforming use.

**Use, Principal Permitted.** Principal permitted use is a use which is permitted outright in a district for which a Zoning Certificate shall be issued provided that the applicant meets the applicable requirements of the Code.

**Used.** The word used shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used.

**Variance.** A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public health, safety, or welfare and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

**Vehicular Use Area.** A vehicular use area is a paved lot utilized for the parking of motor vehicles.

**Village.** Village shall mean all of the land located within the jurisdictional boundaries of the Village of Greenhills, Ohio.

**Wireless Communication Systems.** See **Cellular or Personal Communication.**

**Wholesale Warehousing.** Wholesale warehousing is an establishment that is engaged in the storage and selling of merchandise to retail establishments rather than to consumers.

**Yard.** A yard shall mean an open space other than a court, on a lot, unoccupied and

unobstructed from the ground upward.

**Yard, Front.** Front yard shall mean a yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot, usually the building line.

**Yard, Front, How Measured.** Front yard, how measured shall mean that such depth shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line) to the closest point of a principal building, provided, however, that if the proposed location of the right-of-way line of such street as established on the official map of the Village differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on the official map. Corner lots shall have two front yards.

**Yard, Rear.** Rear yard shall mean a yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line to the closest part of a principal building.

**Yard, Side.** Side yard shall mean a yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line to the side of a principal building, and a line parallel thereto on the lot.

**Yard, Side, Least Width, How Measured.** Side yard, least width, how measured shall mean that such width shall be measured from the nearest side lot line to a principal building.

**Zoning Certificate.** Zoning Certificate shall mean a document issued by the Building/Zoning Official authorizing buildings, structures, or uses consistent with the terms of this Code and for the purpose of carrying out and enforcing its provisions.

**Zoning Map.** The zoning map shall mean the official zoning map of the Village, together with all amendments subsequently adopted.

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**CHAPTER 3  
DISTRICT ESTABLISHMENT AND MAP**

**3.0 Division of Village into Districts**

The Village is hereby divided into nine use districts as follows:

<u>Abbreviation</u>	<u>District</u>
R-1	One Family Residence District
R-2	Multi-Family Residence District
B-1	Neighborhood Business District
B-2	Light Industrial District
B-3	Professional Business District
VC	Village Center
G	Greenbelt District
PUD	Planned Unit Development
H	Historic Overlay District

**3.1 Official Zoning Map**

The districts established in Section 3.0 are shown on the Zoning Map which, together with all explanatory matter therein, is hereby adopted as part of this Zoning Code and is hereby incorporated by reference into this Zoning Code. The Zoning Map, properly attested, shall remain on file in the office of the Municipal Manager or his/her designee.

Greenbelt Districts shown on the official Zoning Map are intended to be identical to those on the original Zoning Map titled "Zoning Districts Map, Greenhills, Ohio, May 5, 1949" except as modified through appropriate legal means and on record in the office of the Municipal Manager.

**3.2 Interpretation of District Boundaries**

Except where referenced on the map to a street or alley line or other designated line by dimensions shown on the map, the district boundary lines follow lot lines or the center lines of streets or alleys as they existed at the time of adoption of this Chapter, but where a district line obviously does not coincide with the lot lines as such, or center lines of streets or alleys, or where it is not designated by dimensions, it shall be determined by the use of an engineer's scale as measured on the Zoning Map.

When the streets or alleys on the ground differ from the streets or alleys on the Zoning Map, the Board of Appeals may apply the Zoning District designations on the map to the property on the ground in such a manner as to conform to the intent and purposes of this Section in the judgment of the Board. However, under no circumstances shall any areas within the Greenbelt District be eliminated or reduced because of any district boundary interpretation.

### **3.3 Lot Divided, Extension of District**

Where a district boundary line established in this Section or as shown on the Zoning Map divides a lot which was in single ownership at the time of enactment of this Chapter, the use authorized thereon and the other district requirements applying to the more restricted portion of such lot under this Chapter shall be considered as extending to the entire lot. Under no circumstances shall any areas within the Greenbelt District be eliminated or reduced because of any district boundary division or extension.

### **3.4 Vacated Street or Alley**

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

### **3.5 Annexations**

All territory which may hereafter become a part of the Village of Greenhills by annexation shall automatically be classed as lying and being in the same District as it was designated by the adjacent jurisdiction, if there be a similar District in existence under these regulations; insofar as the use, area and height of buildings erected thereon can fit into a similar zone, such District shall be applied. If no such use or District is available, then such portion annexed shall automatically be classified as lying and being in the "R-1" Residence District until such classification shall have been changed by an amendment to the Zoning Map, as provided for by law.

### **3.6 Conformance with Regulations**

Except as hereinafter specified:

- A. No land shall be used except for a use permitted in the Zoning District in which it is located, or for a use conditionally permitted and subject to the issuance of a Conditional Use Permit.
- B. No building shall be erected, converted, enlarged, reconstructed, nor shall any building be moved onto a zoning lot or within the same zoning lot, unless it is a use permitted in the Zoning District in which such building is located, except as provided for elsewhere in this Code.

No parcel of land nor lot shall hereafter be created which does not conform to, and meet the requirements of these regulations unless otherwise approved by the Village Planning Commission under its platting authority.

- C. Every building hereafter erected or structurally altered shall be located on a lot

as herein defined. No more than one principal building per lot shall be permitted.

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## CHAPTER 4 SUPPLEMENTAL DISTRICT REGULATIONS

### 4.0 Reduction of Required Area or Space

Unless a variance is specifically granted by the Board of Zoning Appeals, no lot, yard, court, parking area or other space shall be reduced in area or dimension so as to make the area or dimension less than the minimum required by this Code. No part of a yard, court, parking area or other space provided about or for any building or structure for the purpose of complying with the provisions of this Chapter, shall be included as part of the yard, court, parking area or other space required under this Chapter for another building or structure. Furthermore, no part of a yard, court, parking area or other space provided which is already less than the required minimum shall not be reduced further.

### 4.1 Clear Sight Distance at Street and Access Drive Intersections and Corner Lots

To insure that landscape materials do not constitute a driving hazard, a "clear sight triangle" will be observed at all street and access drive intersections. A clear sight triangle is the triangular area formed by a diagonal line connecting two points located on intersecting lines of a right-of-way, easement of access, or pavement edge of an access drive, each point being 20 feet from the intersecting lines. See Figure 4.1A.

#### A. Design

The entire area of the clear sight triangle should be designed as illustrated in Figure 4.1A to provide the driver of the vehicle entering the intersection with an unobstructed view to all points nine (9) feet above the roadway along the centerline. The recommended distance depends upon the design speed of the higher-order street and therefore is greater for arterial streets than for collectors.

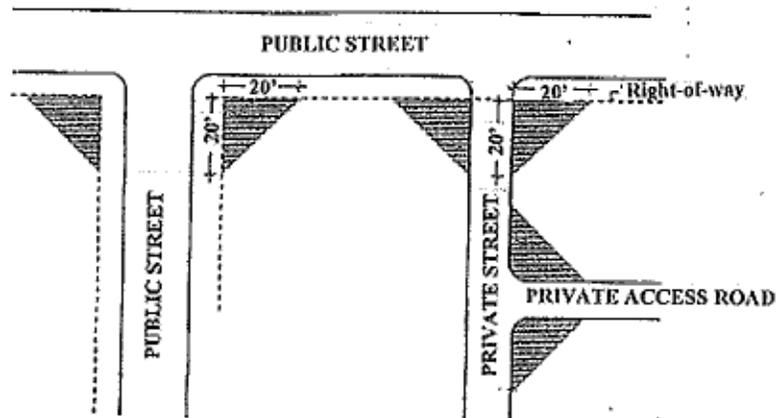
#### B. Restrictions Within Clear Sight Triangles.

Within the sight triangle no landscape material with a mature height greater than twelve inches (12") shall be permitted with the exception of trees which conform to the following standards. Trees shall be permitted within the sight triangles as long as, except during early growth stages, only the tree trunk (no limbs, leaves, etc.) is visible between the ground and nine (9) feet above the ground, or otherwise does not present a traffic visibility hazard. Restrictions shall not apply to the following:

1. Existing natural grades which, by reason of natural topography, rise twelve (12) or more inches above the level of the center of the adjacent intersection;

2. Fire hydrants, public utility poles, street markers, governmental signs and traffic control devices.

**Figure 4.1A  
Sight Distance Diagram**



## 4.2 Cellular or Wireless Communication Systems

Cellular or wireless communication systems shall be regulated as follows:

### A. Intent

In recognition of the quasi-public nature of cellular and/or wireless communication systems, it is the purpose of these regulations as set out here in this Section, and known as "Cellular or Wireless Communications Systems" to:

1. Accommodate the need for cellular or wireless communications towers and facilities for the provision of personal wireless services while regulating their location and number in the Village;
2. Minimize adverse visual effects of communications towers and support structures through proper siting, design and screening;
3. Avoid potential damage to adjacent properties from communications towers and support structure failure; and
4. Encourage the joint use of any new and existing communications towers and support structures to reduce the number of such structures needed in the future.

### B. Definitions

The following definitions shall apply to this chapter:

"Personal Wireless Services" means commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services, including cellular services.

"Cellular Communication Services" means personal communications accessed by means of cellular equipment and services.

"Cellular or Wireless Communications Antenna" shall mean any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground-wired communications systems including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips and other equipment utilized to serve personal communication services.

"Cellular or Wireless Communications Site" shall mean a tract, lot or parcel of land that contains the cellular or wireless communications tower, antenna, support structure(s), parking and any other uses associated with and ancillary to cellular or wireless communications transmission.

"Cellular or Wireless Communications Support Structure" shall mean any building or structure, including guy wire anchors, accessory to but necessary for the proper functioning of the cellular or wireless communications antenna or tower.

"Cellular or Wireless Communications Tower" shall mean any freestanding structure used to support a cellular or wireless communications antenna.

"Cellular or Wireless Communications Tower, Height of" shall mean the height from the base of the structure, at grade, to its top; including any antenna located thereon. Grade shall be determined as the elevation of the natural or existing topography of the ground level prior to construction of the tower.

"Micro antennas" shall mean any cellular or wireless communication antennas which consist solely of the antenna and which do not have any supporting structures other than brackets. Micro antennas shall be equal to or less than five feet in height and with an area of not more than 580 square inches.

"Users" shall mean any individual or company which desires to place a communication tower or antenna within the Village. Such users may include cellular or wireless communications company and any police, fire, ambulance or other emergency departments.

### C. Application Procedure

1. Any company or individual intending to apply for the placement or operation of a cellular or wireless communications antenna, tower or site within the Village, shall first schedule a pre-application conference with the Municipal Manager or his assignee. At this conference, the prospective applicant must present to the Municipal Manager any proposed locations for the equipment or site. This information shall identify the area within which tower may be located, the minimum height of the proposed tower and identify any possible users that may co-locate at the site.
2. Upon completion of the pre-application conference, an application may be filed with the office of the Municipal Manager. The application shall be in compliance with the requirements of this Section and in such form as approved by the Municipal Manager. If the application does not conform with the requirements of this Section, the applicant shall be notified by the Municipal Manager and no further consideration of the application shall occur until it is in compliance with the terms of this chapter.
3. The application fee for a cellular or wireless communication system, tower, antenna, or site shall be two hundred dollars (\$200.00) for each proposed location and fifty dollars (\$50.00) for each new user proposing to co-locate.

#### D. Use Regulations

The following use regulations shall apply to cellular or wireless communication antennas and towers:

1. A cellular or wireless communications site may be permitted in B-1 and B-2 districts subject to the requirements set forth herein.
2. Cellular or wireless communications sites in a B-1 or B-2 zoning district shall not be located any closer to any residential zoning district than as follows:
  - a. Cellular or wireless communication towers less than 100 feet in height shall be located no closer than 100 feet to any residential zoning district.
  - b. For any cellular or wireless communication tower exceeding 100 feet in height, the tower may not be located closer to any residential zoning district than a distance equal to 100 feet plus 1 foot for each foot of height that the tower exceeds 100 feet.
3. If a cellular or wireless communications company can demonstrate that there are no suitable sites under industry or engineering standards for its cellular or wireless communications site within the B-1 or B-2 zoning districts, the company may apply for a permit to place the tower or antenna in a residential district.

To apply for such a permit, the communications company must submit an application, a preliminary site plan, and a rendering of the proposed tower to

the Municipal Manager or a designated representative. A permit to place a tower or antenna within a residential district shall only be granted if the proposed site meets each of the following conditions:

- a. The lot size of the proposed site is no less than three acres; and
  - b. The proposed tower will have a minimum set back of 200 feet from the base of the tower or any guy wire anchors to the property line. However, if one of the property lines of the proposed site abuts a B-1 or B-2 district, the minimal setback from the property line which abuts the B-1 or B-2 district shall be determined in accordance with Section 4.2-F-2; and
  - c. The proposed site is on a lot which is currently used for an institutional purpose such as a school, church, playfield, park, golf course or other similar use.
4. A cellular or wireless communications antenna may be mounted to an existing structure, such as a communications tower (whether said tower is for cellular or wireless purposes or not), smoke stack, water tower or other tall structures in any B- 1 or B-2 zoning district or in a residential district if a permit has been granted as provided in Section 4.2-C-3. Cellular or wireless communication antenna may only be placed on the top of buildings that are no less than thirty-five feet in height.
  5. Micro antennas not exceeding five feet in height may be placed on any buildings in a B-1 or B-2 zoning district or on certain lots in a residential district which meets the conditions in subsection (c) hereof.
  6. All other uses accessory to the cellular or wireless communications antenna and towers including, but not limited to business offices, maintenance depots, and materials and vehicle storage, are prohibited from the site unless otherwise permitted in the zoning district in which the cellular or wireless communications antenna and/or tower is located.
- E. Standards of Approval for Cellular or Wireless Communications Antennas and Towers

The following standards shall apply to all cellular or wireless communications antennas and towers:

1. The cellular or wireless communications company shall be required to demonstrate, using the latest technological evidence, that the antenna or tower must be placed where it is proposed in order to satisfy its necessary function in the company's grid system. Part of this demonstration shall include a drawing showing the boundaries of the area around the proposed location which would also properly permit the antenna to function properly in the company's grid system. This area shall be considered the allowable

zone.

2. If the communications company proposes to build a cellular or wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of nearby tall structures within the allowable zone, asked for permission to install the cellular communications antenna on those structures, and was denied for reasons other than economic ones. "Tall structures" shall include, but not be limited to: smoke stacks, water towers, buildings over thirty-five feet in height, antenna support structures or other cellular or wireless communication companies, other communication towers.

The Village may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good faith effort to mount the antenna on existing structures.

#### F. Requirements of All Cellular or Wireless Communications Antennas and Towers

1. Antenna/Tower Height. The applicant shall demonstrate that the antenna/tower is the minimum height required to function satisfactorily and to accommodate the collocation requirements as set out in subsection (f). No antenna that is taller than the minimum height shall be approved. Cellular or wireless communication towers shall be exempt from the maximum height requirements contained in the Sections 12.8 and 13.8 of the Zoning Code. Cellular towers shall be monopole construction unless it is demonstrated that another type of tower is required for safety purposes.
2. Setbacks from the Base of the Tower. If a new cellular or wireless communications tower is to be constructed, the minimum distance between the base of the tower or any guy wire anchors and any property line which abuts a zoning district other than a residential district shall be no closer than the greater of the following:
  - a. Forty percent (40%) of the tower height;
  - b. The minimum setback in the underlying zoning district; or
  - c. Fifty (50) feet.
3. Cellular or Wireless Communications Tower Safety.
  - a. All cellular or wireless communications towers shall be fitted with anti-climbing devices as approved by the manufacturers. Furthermore, the applicant shall demonstrate that the proposed cellular or wireless communications tower and its' antenna are safe and that the surrounding properties will not be negatively affected by tower failure, falling ice or other debris, electromagnetic fields or radio frequency interference.

However, if a specific safety issue in question is determined to be regulated by either FCC Regulations or applicable Building Code Regulations, and the operation or construction is in compliance with such regulations, then this requirement for safety shall be deemed to have been met.

- b. Subsequent to the installation of a cellular or wireless communications tower site, if it is determined by the Village Council, upon presentation of proper and sufficient documentation, and after a public hearing, that the operation of a cellular or wireless communications tower is inherently dangerous or is a demonstrable health hazard, the cellular or wireless tower shall be declared to be a nuisance and all operation shall cease. The tower or antenna shall also be removed as provided under Section 4.2-H. However, no order of removal shall be made if it is inconsistent with existing FCC regulations.
  - c. Subsequent to the installation of a cellular or wireless communications tower site, if it is determined by the Village Council, after a public hearing, that the operation of a cellular or wireless communications tower is inherently dangerous or is a demonstrable health hazard, the cellular or wireless shall be declared to be a nuisance and all operation shall cease. The tower or antenna shall also be removed as provided under Section 4.2-H.
4. Fencing. A fence shall be required around the cellular or wireless communications tower and its' support structure(s), unless the antenna is mounted on an existing structure. The fence shall be minimum of eight feet in height and shall be erected to prevent access to non-authorized personnel.
  5. Landscaping. Landscaping shall be provided to screen as much of the support structure and ground level features as is possible. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
  6. Limiting the Number of Cellular or Wireless Communications Towers. In order to reduce the number of antenna support structures needed in the Village in the future, the proposed cellular or wireless communications tower shall be required to accommodate other uses, including other cellular or wireless communications companies, and the local police, fire, and ambulance departments.

For the purposes of encouraging collocation of cellular or wireless antenna and other uses, cellular or wireless communication towers shall be designed, engineered, and constructed as follows:

- a. Towers less than seventy-five feet tall shall be designed, engineered and

constructed to support antennas installed by one or more cellular or wireless communication service providers;

- b. Towers more than seventy-five feet in heights but less than one hundred fifty feet shall be designed, engineered and constructed to support antennas installed by two or more wireless communication service providers; and
- c. Towers one hundred fifty feet in height or taller shall be designed, engineered and constructed to support antennas installed by three or more cellular or wireless communication service providers.

As used in subsections (1), (2) and (3) hereof, the term "users" shall include the antennas of police, fire and ambulance departments. In addition, an applicant must demonstrate that the area acquired by lease or otherwise acquired for the use and construction of the cellular tower and accessory structures is sufficient in size to accommodate any additional structures that may be required if additional users are added to the tower.

7. Licensing. The communications company must demonstrate to the Village that it is licensed by the Federal Communications Commission (FCC). The owner of the tower must also annually provide to the Village on January 1 of each year, a list all users of the tower and provide the Village with a copy of each user's license with the FCC.
8. Required Parking. If the cellular or wireless communications site is fully automated, adequate parking shall be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in the Zoning Code.
9. Appearance. Cellular or wireless communications towers under 200 feet in height shall be painted silver or have a galvanized finish retained in order to reduce visual impact. Cellular or wireless communications towers shall meet all Federal Aviation Administration (FAA) regulations. No cellular or wireless communications towers may be artificially lighted except when required by the FAA. Furthermore, no cellular or wireless communication tower or antenna shall contain any signage.
10. Site Plan Required. A full site plan shall be required for all proposed cellular or wireless communications sites, except antenna to be placed on existing structures, at a maximum scale of 1 inch to 100 feet (1"=100'), indicating, as a minimum, the following:
  - a. The total area of the site.

- b. The existing zoning of the property in question and of all adjacent properties.
- c. All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned.
- d. Existing topography with a maximum of five foot contours intervals.
- e. The proposed finished grade of the development shown by contours not exceeding five foot intervals.
- f. The location of all existing buildings and structures and the proposed location of the cellular or wireless communications tower and all cellular or wireless communications support structures including dimensions, heights, and where applicable, the gross floor area of the buildings.
- g. The locations and dimensions of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, grades, surfacing materials, drainage plans and illumination of the facility.
- h. All existing and proposed sidewalks and open areas on the site.
- i. The location of all proposed fences, screening and walls.
- j. The location of all existing and proposed streets.
- k. All existing and proposed utilities including types and grades.
- l. The schedule of any phasing of the project.
- m. A written statement by the cellular or wireless communications company as to the visual and aesthetic impacts of the proposed cellular communications tower on all adjacent residential zoning districts.
- n. Any other information as may be required to determine the conformance with this Zoning Code.

For cellular or wireless communications antenna to be placed on an existing structure, the applicant shall submit such information as required by the Zoning Inspector to insure compliance with the applicable provisions of this chapter.

#### G. Maintenance

Any owner of property used as a cellular or wireless communications site shall maintain such property and all structures in good condition and free from trash,

outdoor storage, weeds and other debris. Any owner of a cellular or wireless communications tower shall be required to notify the Municipal Manager of its intent in writing within thirty days of its cessation of business, its discontinuance of service, or transfer of ownership.

#### H. Removal

1. Any cellular or wireless communications tower that has discontinued its service for a period of twelve (12) continuous months or more is hereby determined to be a nuisance. A tower declared to be a nuisance must be removed, along with all accessory structures related thereto. Discontinued shall mean that the structure has not been properly maintained, has been abandoned, become obsolete, is unused or has ceased the daily activities or operations which had occurred.
2. Whenever, upon inspection it shall appear that a cellular or wireless communications tower has been abandoned or its use discontinued, the Municipal Manager or a designated representative shall notify, either by personal delivery or by certified mail, the owner of the property on which the tower is located that the tower must be taken down and removed. Municipal Manager or a designated representative, in addition to any other citations, notices, penalties or remedies provided by law or ordinance, is authorized to proceed in a manner consistent with and pursuant to Ohio R.C. Sections 715.26 and 715.261 to maintain the public health, safety and welfare and to recover costs as appropriate.

#### I. Miscellaneous

1. No cellular or wireless communications tower shall be permitted on any lot on which any non-conforming building or structure is located nor on which any non-conforming use or activity is occurring without first obtaining a variance.
2. No cellular or wireless communications tower shall be constructed, replaced, or altered without first obtaining the applicable building permit.

### 4.3 Performance Standards to Regulate Potential Hazards and Nuisances

The following minimum standards shall apply to all uses in the Business and Industrial Districts and all Planned Unit Developments:

#### A. Fire and Explosion Hazards

All activities including storage, involving flammable or explosive materials, shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is

prohibited, as enforced by the Ohio Environmental Protection Agency.

B. Air Pollution

No emission of air pollutants shall be permitted which violate the Clean Air Act Amendment, as amended from time to time, as enforced by the Ohio Environmental Protection Agency.

C. Glare, Heat and Exterior Light

Any operation producing intense light or heat, such as high temperature processes like combustion, welding or otherwise, shall be performed within an enclosed building and shall not be visible beyond any lot line bounding the property whereon the use is conducted. No exterior lighting shall be positioned so as to extend light or glare onto adjacent properties or rights-of-way.

D. Dust and Erosion

Dust or silt shall be minimized through landscaping, paving or other adequate means in a manner as to prevent their transfer by wind or water to points off of the lot in objectionable quantities.

E. Liquid or Solid Wastes

No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.

F. Vibrations and Noise

No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property lines of the subject premises. Noise standards of the Ohio Environmental Protection Agency shall be adhered to.

G. Odors

No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor causing substances in such concentrations as to be readily perceptible at any point or beyond the lot line of the property on which the use is located. The applicable standards of the Ohio Environmental Protection Agency shall be adhered to.

#### **4.4 Regulations for Automotive Service Stations and/or Repair Garages and Gasoline Sales Establishments**

The following requirements shall apply to automotive service stations and/or repair garages and gasoline sales establishments:

- A. There shall be a minimum of two (2) separate driveways providing ingress and egress from the property, located not closer than fifty (50) feet from one another, twenty-five (25) from any adjacent residentially zoned district, or a minimum of seventy-five (75) feet from a street intersection. The Village may require the submission of a traffic study prepared by a qualified traffic engineer to evaluate the proposed driveway locations and if necessary, recommend alternate locations.
- B. The entire lot area, exclusive of the area covered by the building, shall be paved and/or landscaped. A minimum four (4) inch high curb shall separate all paved areas from all landscaped areas.
- C. In the case of an automotive service station/repair garage or gasoline sales establishment, the light from exterior lighting shall be so shaded, shielded or directed that the light intensity or brightness shall not be objectionable to any surrounding residential area.
- D. A solid fence, wall or evergreen hedge, four (4) to six (6) feet in height shall be constructed or planted, and maintained in good condition where ever such use abuts a residentially zoned district.
- E. Motor vehicle fuel pumps, compressed air connections and similar equipment shall be erected no closer than fifteen (15) feet to any right-of-way line.
- F. Canopies erected on an automotive filling station site shall be erected no closer than fifteen (15) feet to any right-of-way line and shall not be more than eighteen (18) feet above the ground nor less than fourteen (14) feet above the ground.
- G. Other uses permitted in a district which automotive service stations are permitted may be combined on the same premises with automotive filling station uses provided that, before the commencement of such combined uses, a development plan shall be submitted to the Planning Commission for its review and approval. In determining the approval, approval with modifications or disapproval of such development plan, the Planning Commission shall consider the following factors, and its approval or disapproval shall be based on the following factors alone:
  - 1. Access, ingress, egress and traffic circulation;
  - 2. Off-street parking and loading spaces as required by this Zoning Code;