

## CHAPTER 1257 SUPPLEMENTAL DISTRICT USES AND STRUCTURES

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The following supplementary district uses and structures are allowed in various zoning districts as specified in each subsection. To assure compliance with the conditions and regulations of this chapter, each use shall require a zoning permit.

### 1257.01 **Accessory Uses**<sup>1</sup>

#### A. General

1. No accessory use, building, structure or pond shall be permitted on any lot which does not contain a dwelling or a main building.
2. Accessory buildings shall be constructed in accordance with the Village building codes.
3. Wood decks and tree houses are considered accessory buildings and structures and shall require a permit prior to their construction or erection of the same

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<sup>1</sup> Amended Ord. 27-2006; Effective August 1, 2006

\* Amended Ord. 7-2013; Effective July 2, 2013

except as provided herein. No permit shall be required for a tree house except when constructed upon a post or posts in or upon the ground. A permit will be issued only upon approval of Site Plans, drawings and diagrams for the construction of wood decks and tree houses by the Zoning Inspector. Tree houses may not be used for storage purposes.

B. Setback

1. If smaller than twelve (12) feet by twelve (12) feet, accessory buildings and structures shall have a minimum setback of five (5) feet from each lot line.
2. If twelve (12) feet by twelve (12) feet or larger, such buildings and structures shall have a minimum setback of ten (10) feet from each lot line.
3. Agricultural buildings shall have a minimum setback of twenty (20) feet from each lot line.

C. Yard Requirement

1. Accessory buildings shall not be located in any front yard nor in the side yard of a corner lot when that yard faces a street or road.
2. An accessory building not exceeding twenty (20) feet in height may occupy not more than thirty (30) percent of a required rear yard.

1257.02 **Agriculture<sup>2</sup>**

A. Animal Husbandry. Livestock used in agriculture or raised for agricultural purposes shall not be maintained within one hundred fifty (150) feet of a non-farm building.

B. Farm Markets

1. General. Farm markets shall be permitted only where all of the gross income from the market is derived from the sale of plant produce raised on the premises.
2. Setback. To allow for safe ingress and egress of vehicles and temporary parking, no building, structure, produce stand, or vehicle used for produce sale or storage shall be closer than fifty (50) feet of any road right-of-way.
3. Area and Design Requirements. Farm markets shall be temporary structures only; shall be a maximum of one (1) story high; and shall not contain greater than two hundred (200) square feet in floor area.

C. Pole Barn Construction

1. The construction and/or erection of pole-type buildings and barns shall be permitted only within the specific areas of the Village, as are now or shall be

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<sup>2</sup> Amended Ord. 27-2006; Effective August 1, 2006

henceforth zoned "Agricultural". "Agricultural" zoned areas of the Village are those areas so designated in [Chapter 1250](#) (Establishment of Districts).

2. Any and all pole-type construction and/or erection of such buildings shall be subject to all other codes and regulations of the Village as may be designated in applicable building or zoning codes and regulations for the Village.<sup>3</sup>

#### 1257.03 **Big Box Retail and Service Development**<sup>4</sup>

Big box retail and service structures greater than fifty thousand (50,000) square feet in gross floor area can have a detrimental impact on the Municipality without an effort to account for unplanned impacts to the community. When the provisions of this Section conflict with other standards of this Zoning Ordinance, the provisions of this Section shall control.

##### A. Prohibited On-site Accessory Uses

1. Gas pumps;
2. Automotive sales, new or used;
3. Beverage vending machines outside the store;
4. Kiddie rides outside the store.

B. Site Plan Review Required. All proposed construction, reconstruction, additions, changes, or conversions, wholly or partly, to big box retail structures shall be subject to Site Plan review by the Planning Commission pursuant to [Section 1241.06](#) (Site Plan Requirements).

C. Traffic Impact Study Required. A traffic impact study prepared by a professional engineer registered in the State of Ohio and reviewed and approved by the Lucas County Engineer (and the Ohio Department of Transportation if along a state highway) shall be required to determine necessary road improvements to adjacent roads impacted by the proposed development. The Study shall be in accordance with the requirements of [Section 1251.09\(I\)](#) (Traffic Impact Study).

D. Design Standards. Architectural features, including landscaping, materials, texture, and colors, are to be integrated in the design of big box retail buildings. The Planning Commission shall review architectural and landscaping plans for big box structures with developers prior to approval of zoning or building permits. The Planning Commission is charged to approve proposed plans or make recommendations for inclusion of design features which meet the following design standards for big box structures:

1. Facade Design. The following standards shall apply to the exterior of buildings, except that this requirement shall not apply to the rear wall of the building when

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<sup>3</sup> Amended Ord. 4-86; Passed 2-18-86

<sup>4</sup> Amended Ord. 27-2006; Effective August 1, 2006

that wall is used only for loading and service doors and service areas, and when that wall is effectively screened from public view by fencing, mounding, and/or landscaping in accordance with a plan approved by the Planning Commission.

- a) All facades of a building that are visible from adjoining properties and/or public streets shall contribute to the pleasing scale features of the building and encourage community integration by featuring characteristics similar to a front facade.
- b) Facades greater than one hundred (100) feet in length shall incorporate recesses and projections a minimum of three feet in depth and a minimum of twenty (20) contiguous feet within each one hundred (100) feet of facade length. Windows, awnings, entry areas, and arcades shall total at least sixty (60) percent of the facade length facing a public street.
- c) Building facades shall include a repeating pattern that shall include no less than three of the following elements: color change, texture change, material module change, or expression of architectural or structural bay through a change in plane no less than twelve (12) inches in width, such as an offset, reveal, or projecting rib. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.
- d) Predominate exterior building materials should be of high-quality brick, wood, stone (sandstone, cut-stone, field stone, cast stone, or other native stone material), glass, or exterior insulation and finish systems (EOFS) or equivalent product when thirty-six (36) inches above grade and not within an entryway. Materials such as smooth-faced concrete block, smooth-faced tilt-up concrete panels, wood sheet goods, or metal sheet goods (such as pre-fabricated steel panels) are discouraged. The use of multiple materials should be encouraged to provide visual interest.
- e) Facade colors shall be of low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited. Building trim may feature brighter colors than facade colors, subject to the approval of the Planning Commission, but neon tubing and fluorescent colors are prohibited.
- f) Each principal building or tenant space shall have a clearly defined, highly visible customer entrance with a minimum of three of the following features: canopies, porticos, overhangs, recesses/projections, arcades, raised cornice parapets over the door, peaked roof forms, arches, outdoor patios, display windows, and architectural details such as tile work and moldings which are integrated into the building structure and design, integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
  - 1) Each side of a principal building that directly faces an abutting public street shall feature at least one customer entrance.
  - 2) Where a principal building directly faces more than two abutting public streets, this requirement shall apply only to two sides of the building,

including the side of the building facing the primary street, and another side of the building facing a secondary street.

- g) Smaller retail stores that are part of a larger principal building shall have recessed display windows and should include visually prominent sills, shutters, or other such forms of framing. Where windows are visible from a residential district or residential use, shades, window tinting, or awnings shall be used to prevent lights shining through at night. Smaller retail spaces shall have separate outside entrances.

## 2. *Roof Design*

- a) Roof lines shall provide variations to reduce the massive scale of big box retail structures and to add visual interest.
- b) Standing seam metal roofs are strongly preferred.
- c) Roof lines shall have a change in height every one hundred (100) linear feet in the building length.
- d) Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and rooftop mechanical equipment from public view.
- e) Alternating lengths, overhanging eaves, multiple roof slope planes, and other designs may be acceptable and can be addressed with the Planning Commission.

## 3. *Grading and Stormwater Detention*

- a) Retaining walls are to be constructed of stone veneer instead of the typical concrete.
- b) Detention or retention ponds or rain gardens shall be used to catch storm water before it is released into public storm sewers, ditches, creeks or lakes.

E. Outside Storage. In addition to the requirements contained in [Section 1257.11](#) (Open Storage and Display of Material and Equipment), the following supplemental regulations shall apply:

- 1. Outside storage shall be strictly limited so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.
  - a) No areas for outdoor storage, trash collection or compaction, or other such uses shall be located within twenty (20) feet of any public or private street, public sidewalk or access easement, or internal pedestrian way.
  - b) Outdoor storage areas shall be in screened enclosures at the rear of the building. Such screening materials shall reflect the principal materials of

the building. At least three (3) sides of an enclosed storage area shall be landscaped to provide fifty (50) percent opacity at all times of the year.

2. Trash collection, outdoor storage, and similar facilities and functions, as provided for by code, shall be incorporated into the overall site plan and the landscaping plan.
  3. No trash removal or similar operations are permitted between the hours of 10:00 p.m. and 7:00 a.m., except in special circumstances and where steps are taken to reduce noise impacts.
- F. Landscaping, Buffering and Screening. In addition to the requirements of [Section 1257.09](#) (Landscaping and Screening Regulations) and the Village Street Tree Ordinance, the following supplemental regulations shall apply:
1. Lush landscaping shall be installed around the perimeter of the building.
  2. Where building facades face adjacent residential uses, an earthen berm shall be installed, no less than six (6) feet in height, containing at a minimum, a double row of evergreen or deciduous trees planted at intervals of fifteen (15) feet on center.
  3. Additional landscaping may be required by the Planning Commission, Tree Commission, and/or Council to effectively buffer adjacent land use as deemed appropriate.
- G. Lighting Standards. All lighting on the exterior of the building(s) shall be subject to the requirements of [Section 1257.12.D](#). (Lighting Performance Standards).
- H. Sign Standards. In addition to the requirements of [Chapter 1259](#) (Signs), no pole signs shall be allowed on the property.
- I. Pedestrian Walkways and Amenities
1. At least one continuous internal pedestrian connecting walkways for each primary street frontage, no less than six (6) feet in width, shall be provided from the public sidewalk or right-of-way linking the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature items such as adjoining landscaped areas that includes trees, shrubs, benches, flower beds, planters, groundcover, or other such materials for no less than thirty (30) percent of its length.
  2. Sidewalks shall be provided along the full length of the building along any facade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping.
  3. Safe and clearly defined pedestrian walkways, leading to store entrances, must be provided within large parking lots.

4. Customer entrances shall have weather protection features such as awnings, or arcades, or vestibules.
  5. Where internal pedestrian walkways cross parking aisles or driveways, they shall be distinguished from driving surfaces through the use of durable, low-maintenance surface materials such as special pavers, bricks, scored concrete, or scored and painted asphalt to enhance pedestrian safety and the attractiveness of the walkways.
  6. Each retail development shall contribute to the establishment or enhancement of the community and public spaces by providing at least two (2) community amenities such as a patio/seating area, pedestrian plaza with benches, outdoor play area, kiosk area, water feature, clock tower, steeple, or other such deliberately shaped area and/or a focal feature or amenity that adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.
- J. Parking Standards. In addition to the requirements of [Chapter 1258](#) (Off-street Parking and Loading), the following supplemental parking regulations shall apply:
1. The design of parking facilities shall define spaces for safe pedestrian movement and spaces where people change modes of travel. Defining such spaces includes the use of brick pavers, scored or painted concrete or asphalt or comparable techniques.
  2. No more than sixty (60) percent of the off-street parking area for the entire property shall be located between the front facade of the principal building and the primary abutting street unless the principal building and/or parking lots are screened from view by out-lot development and additional tree plantings and/or earth berms.
  3. In order to reduce the scale of parking areas, each aisle of parking area shall be divided into two or more sub-areas separated from each other by a buffer strip consisting of lush landscaping, access drives or public streets, pedestrian walkways, or buildings. Such buffer strip shall be designed to detain/filter stormwater collected from the pavement area.
  4. Cart islands shall have concrete curbs and landscaping.
  5. At the parking lot edge, guardrails shall be screened from view with brick pillars and ornamental iron railing.
- K. Loading and Delivery Standards. In addition to the requirements of [Chapter 1258](#) (Off-street Parking and Loading), the following supplemental regulations shall apply:
- L. Loading docks and mechanical fixtures, as provided for by code, shall be incorporated into the overall design of the building and the landscaping so that the

visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.

- M. Use of screening materials that are different from or inferior to the principal materials of the building and landscape is prohibited.
- N. No areas for delivery or loading shall be located within twenty (20) feet of any public or private street, public sidewalk or access easement, or internal pedestrian way.
- O. Where a residential unit is located within five hundred (500) feet of the establishment, no delivery or loading operations are permitted between the hours of 10:00 p.m. and 7:00 a.m., except in special circumstances and where steps are taken to reduce noise impacts.

#### 1257.04 **"B-P" Business Park District Design Standards**

- A. Buildings within this district shall not be approved which do not treat all exterior walls of all structures permitted herein with acceptable materials that present an equally finished facade to all street frontage and twenty (20) feet on sides and these shall consist of brick, decorating masonry, or cedar.
- B. That necessary loading docks and enclosed waste storage awaiting pickup be especially well treated in terms of site placement and landscape and other suitable screening.

#### 1257.05 **Dish Antennas**

- A. Exempt Dish Antennas. In accordance with the Telecommunications Act of 1996, satellite dish antennas with a diameter of one (1) meter (39.97 inches) or less when located in an "A" or "R" District are exempt from the provisions of this Ordinance.
- B. Permitted Antennas. Satellite dish antennas with a diameter in excess of one (1) meter (39.97 inches) are permitted in all Districts.
- C. Location of Ground-Mounted Earth Stations:
  - 1. Due to the desire of the Village to maintain a high degree of neighborhood aesthetic conformity and to promote the utmost safety of installation and operation, no earth station shall be constructed in any front or side yard, but shall be constructed to the rear of the residence or main structure.
  - 2. No earth station, including its concrete base slab or other substructure, shall be constructed less than 10 feet from any property line or easement.
  - 3. No earth station shall be constructed without appropriate landscaping to reasonably conceal said earth station from view, and the planting shall be completed before final approval by the Zoning Inspector.



4. No earth station shall be linked, physically or electronically, to a receiver which is not located on the same lot, premises or parcel of land as is the earth station.
5. An earth station shall not exceed a grade height of 12 feet.
6. An earth station must not exceed ten (10) feet in diameter.

D. Location of Roof-Mounted Earth Stations:

1. Earth stations shall be mounted directly upon the roof of a primary or accessory structure, as defined in the Building Code and shall not be mounted upon appurtenances such as chimneys, towers, trees, poles or spires.
2. An earth station shall not exceed a high of more than three (3) feet above the roof upon which it is mounted.
3. An earth station "dish" shall not exceed three (3) feet in diameter.
4. No earth station shall have written upon it any advertising whatsoever or any written lettering larger than one (1) inch in height.

1257.06 **Extraction Industries**

- A. Removal. The removal of soil, sand and gravel, and or minerals shall not exceed twenty-five (25) percent of the total surface area of a parcel. All extraction industries in the removal of products shall meet the requirements of Surface Mining and Reclamation under ORC 1514.10.
- B. Refilling. The refilling of an area which has been excavated for the extraction of soil, sand and gravel shall be considered waste disposal and shall meet the requirements set forth by the Board of Health for solid waste disposal under ORC 3734.05.

1257.07 **Fencing<sup>5</sup>**

A. General

1. No fence shall be allowed within the public right-of-way.
2. Fences may not exceed thirty-six (36) inches in height in the required front yard nor exceed six (6) feet in height above the uniform established grade in any remaining yards.
3. Chain link fences shall not be permitted in any front yard.
4. A fence shall be located a minimum of one foot from the property line, unless written permission is granted by the neighboring property owner and presented

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<sup>5</sup> Amended Ord. 27-2006; Effective August 1, 2006

to the Zoning Inspector prior to the issuance of a permit allowing the fence to be erected on the property line.

B. Corner Lot

No fence or structure shall be created or maintained within thirty (30) feet of the corner (point of intersection of the two (2) streets rights-of-way) at a height exceeding three (3) feet above curb or street grade.

1257.08 **Home Occupations<sup>6</sup>**

A. For Residential Districts:

1. A home occupation may include the use of one (1) accessory building as a place for operation of the home occupation or for purposes of storage of equipment. The accessory building shall not exceed ten (10) percent of the lot area or five-hundred (500) square feet in area maximum, and shall be the only accessory building on the lot.
2. Only members of the family residing on the premises shall be engaged in such occupation;
3. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of floor area of the dwelling unit shall be used in the conduct of the home occupation.
4. There shall be no change in the outside appearance of the building or premises, outside storage of materials incidental to the home occupation, nor other visible evidence of the conduct of such home occupation.
5. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood.
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

B. For Commercial Districts where a residential dwelling is the principal use of a parcel, any accessory business or service must comply with the following:

1. All vehicles, trailers, specialized equipment trailers/tractors and towed equipment will be stored in a building. Such equipment will not be stored or parked on or in any front, rear, or side yard.

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<sup>6</sup> Amended Ord. 27-2006; Effective August 1, 2006

2. Yards will not be used for storage of supplies or by-product materials associated with the accessory use of the property or for parking and storing of vehicles unless they are on an approved asphalt or concrete parking lot or driveway (which requires Site Plan approval). All yards, courts, porches, patios, and driveways will be kept free of debris, appliances, or other materials which may cause a health and safety hazard or general unsightliness.

#### 1257.09 Landscaping and Screening Regulations<sup>7</sup>

- A. Purpose. The intent of this section is to establish minimum standards for the preservation of existing natural amenities, the design and installation of landscape improvements, and to contribute to development quality and compatibility between land uses by reducing negative physical, visual, noise, and lighting impacts. The regulations address materials, placement, layout, and timing of installation.
- B. Applicability. This section shall apply to the construction or improvement of any subdivision, development site, building, structure, or vehicular use, or any collective substantial improvements to existing structures.
- C. Buffering Between Incompatible Land Uses. Every proposed development which adjoins or faces incompatible zoning districts, land uses, or premises, including across streets and alleys, shall provide sufficient buffering and screening so that neighboring properties are buffered from, or any residential development is buffered from, any adverse economic or environmental external effects of that development. The characteristics of incompatible uses or activities are that they cannot typically be located near each other in harmony and without conflict. For instance, an agricultural use proposed next to a residential use or district, a multi-family use proposed next to a single-family residential use or district, or a commercial or industrial use proposed next to an agricultural or residential use will be deemed an incompatible use. Likewise, a residential use or development proposed adjacent to an agricultural, commercial, business park, or industrial use or district will be deemed an incompatible use. Some elements affecting compatibility include, but are not limited to intensity of occupancy, dwelling units per acre, floor area ratio, pedestrian or vehicular traffic generated, volume of goods handled, loss of privacy, unsightly views, and such environmental effects such as traffic, noise, vibration, odor, dust, light spill-over and glare, smoke, pollution, water vapor.
  1. A buffer area shall consists of an area not less than ten (10) feet in width and running the length of the side and/or rear yards within a required front, rear, and side yard setback adjacent to the incompatible abutting use or uses.
  2. Buffer areas shall consist of maintained living vegetative material such as trees, shrubs, and ornamental plants that present one hundred (100) percent year-round opacity to a height of six (6) feet or more within one (1) year of planting; or earth mounding, decorative stone or masonry walls, or wood fencing not exceeding a maximum height of six (6) feet in combination with living vegetative material.

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<sup>7</sup> Amended Ord. 27-2006; Effective August 1, 2006

3. A buffer area may only be occupied by utilities, sidewalks and bikeways, screening, and landscaping. No buildings, accessways, or parking areas shall be allowed in a buffer area except where an access way design is approved by variance.
  4. Where vegetative and/or topographic conditions that provide a natural buffer exist prior to development of a subject property, every effort shall be made to retain such conditions. In such cases, additional buffering may not be required, provided that provision is made for maintenance of such areas.
  5. The requirement for the installation of buffers may be waived if equivalent buffering is provided by existing or planned parks, parkways, recreation areas or by topography or other natural conditions.
- D. Screening Strips Along Road Frontage. Screening strips shall be required along all commercial and industrial road frontages to a minimum depth of fifteen (15) feet or fifty (50) percent of the required minimum yard depth, whichever is greater.
1. Screening strips shall consist of maintained living vegetative material such as trees, shrubs, and ornamental plants.
  2. A screening strip may only be occupied by utilities, sidewalks and bikeways, screening, and landscaping. No buildings, accessways, or parking areas shall be allowed in a buffer area except where an access way design is approved by variance.
  3. Where vegetative and/or topographic conditions that provide a natural screening strip exist prior to development of a subject property, every effort shall be made to retain such conditions. In such cases, additional screening may not be required, provided that provision is made for maintenance of such areas.
- E. Off-Street Parking Lot Landscaping and Screening. The purpose of requiring parking lot landscaping is to help reduce glare and heat build up, to promote interior islands and walkways for pedestrian safety and traffic separation, to visually break up large expanses of pavement, and to buffer adjacent uses from parking lots.
1. All off-street parking and loading facilities shall be accompanied by a detailed landscaping plan to be reviewed and approved by the Zoning Inspector. The Zoning Inspector may seek review and recommendation from the Planning Commission.
  2. For all uses other than single and two family residence drives, but including such residences in the yard where a boat or recreational vehicle is legally parked, there shall be provided continuous screening to a height of no less than three (3) feet, which screening shall consist primarily of landscaping such as hedges, shrubs, mounded flower beds, and trees, but may also include fences in combination with landscaping.
  3. Landscaped areas around parking lots and along multifamily and nonresidential drives measured to the property line shall be no less in width than the smallest

side or rear yard space required by the zoning district for accessory structures, but in no case less than five (5) feet.

4. Where parking lots are within, abut or opposite an "S" or "R" District, landscaping shall be required for those yards which are adjacent to the "S" or "R" District. Landscaping shall effectively shield the view from these respective adjacent parcels.
  5. Landscaping shall consist of natural materials such as plantings, mounding, stone, walls or fences of wood, decorative stone or masonry.
- F. Screening of Outdoor Storage and Product Display. Screening of outdoor storage and/or product displays shall consist primarily of landscaping such as hedges, shrubs, mounded flower beds, and trees, but may also include fences in combination with landscaping.
1. *Outdoor Storage.* The outdoor storage of a recreational vehicle, boat, trailer, trash receptacle area, or other outdoor storage of materials or equipment as permitted by this Ordinance shall be screened on three (3) sides to a height of no less than six (6) feet.
  2. *Outdoor Product Display.* Uses which utilize outdoor display of products sold on the premises shall not be exempt from this requirement, but the Planning Commission may permit grouping of the screening, along the street property line, to allow for corridors of less obstructed view of the product.
- G. Vision Clearance. Landscaping shall not obstruct visibility within ten (10) feet of any access apron to a street or road right-of-way and within this area, landscaping shall be maintained at a height not to exceed forty-two (42) inches. Low-opacity screening and short ground cover shall be substituted for required tall and high-opacity screening plant materials within vision clearance areas.
- H. Existing Plant Material Preservation Requirements. Existing landscaping or natural vegetation on a site that is in satisfactory condition may be used to satisfy any landscaping requirement in whole or in part and shall be protected and maintained during the construction phase of the development.
1. Every development shall retain all existing trees eighteen (18) inches in diameter or more unless it is determined that the retention of such trees would unreasonably burden the development.
  2. No excavation or other subsurface disturbance may be undertaken within the drip line of any tree eighteen (18) inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within twelve and one-half (12.5) feet (measured from the center of the trunk) of any tree eighteen (18) inches in diameter or more unless compliance with this subsection would unreasonably limit reasonable use of the site.
- I. New Plant Material and Installation Specifications. All plant material shall be nursery grown and installed in accordance with accepted, good construction and horticultural practices. Plant material shall meet current standards set by the American

Association of Nurserymen and shall be freshly dug, have outstanding form and be free of disease, insects and/or damage.

1. Species selection should include consideration of soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, and compatibility with existing native vegetation preserved on the site. Alternatives to specified materials that can be shown to meet both the intent and requirements of this Zoning Ordinance may be approved as part of a Landscaping Plan.
2. *Grass and Ground Cover.* Grass or ground cover shall be planted on all portions of the property not occupied by structures, vehicular use areas or other plant material. If approved as part of a Landscaping Plan, ground cover may also consist of rocks, pebbles, wood chips, and/or other natural material. Any form of mulch shall only define a landscaped area and shall not be permitted to be installed in lieu of grass or ground cover.
  - a) Grass shall be planted in species normally grown as permanent lawns selected to assure slow growth and low water consumption whenever possible. Recommended grass seeding is the "urban mix" as set forth in the most recent edition of the ODOT *Construction Materials Specifications* (consisting of 35% Kentucky Bluegrass; 35% Creeping Red Fescue; 10% Annual Rye Grass; and 20% Perennial Ryegrass) or an equivalent seed mix applied at the rate of six (6) pounds per one thousand (1,000) square feet;. Recommended commercial fertilizer is rated 12-12-12 and applied at the rate of twenty (20) pounds per one thousand (1,000) square feet.
  - b) Ground cover is to be planted a minimum of eight (8) inches on center in such a manner to present a finished appearance and seventy-five (75) percent coverage after one (1) complete growing season.
3. *Vines.* Vines shall generally be used only in conjunction with mounds, walls, fences, or other similar screening materials and shall be at least twelve (12) to fifteen (15) inches long at planting.
4. *Shrubs.* Shrubs shall be at least twenty-four (24) inches in average height and spread at the time of planting. Where used for buffering, shrubs shall be spaced to form a continuous, year-round, solid visual screen within five (5) years after planting.
5. *Trees.* Trees shall represent the best possible combinations of the following characteristics:
  - a) Diversity. Planting diversity is the goal of the tree program to prevent an over-dependence on a few species. Overuse of a few species is inevitable without a conscious effort to vary plant species and families. The use of several varieties adds interest to the plantings of the Township and insures against the loss of all trees in case of an epidemic disease striking any one species. The International Society of Arboriculture's "Diversification Formula" shall be used as a guideline to prevent over planting of a single species or family. This formula states that, out of the total planting, no

more than ten (10) percent should be from one family, and no more than five (5) percent should be of one species.

- b) Hardiness. Trees should be selected for resistance to: pests and plant diseases, extreme temperatures, drought, storm damage, air pollution, and have the ability to survive physical damage from human activity.
  - c) Life Cycle. Trees should be selected for moderate to rapid rate of growth and long life.
  - d) Foliage and Branching. Deciduous trees should have the tendency to branch high above the ground with a wide spreading habit and relatively dense foliage for maximum shading. It is recommended that for most landscaping uses, a tree with an ultimate height of less than forty (40) feet be used.
  - e) Low Maintenance. Street trees shall have little or no pruning requirements and present insignificant litter problems.
  - f) Preferred Tree Species. Indigenous species of trees shall be selected from the list of preferred tree species in the Village Street Tree Ordinance.
  - g) Hazardous Trees. Trees susceptible to disease or attack by insects are prohibited in the Village. Trees which produce nuts, seeds, or fruit, low branches, unpleasant odors, excessively thick foliage, or large root systems are prohibited along the public right-of-way, walkways, or parking lot where they may create a hazard to pedestrians or vehicles, or interfere with above-ground or underground utilities or street lighting.
    - 1) Poplar, Willow, Cottonwood, American Elm, Ailanthus, Mountain Ash, Silver Maple, Ash Leaved Maple and Oregon Maple shall not be planted in such a manner that the natural dripline of an average adult tree of the species will be any closer than three (3) feet of a public right-of-way, pedestrian walkway or parking lot.
    - 2) Poplar, Willow or Cottonwood trees shall not be located within one hundred (100) feet of any public sewer or septic system.
6. *Tree Planting Specifications*. Whenever possible, planting should be done during the months of April, May, October or November. Size, balling, branching and quality of tree shall be according to U.S.A. standards for Nursery Stock Trees.
- a) Trees normally should not be planted closer than forty (40) feet to each other.
  - b) Present and future approaches to dwellings and garages shall be considered for location of new trees.
  - c) Tree pits should be dug with sides approximately vertical to a depth of twenty-two (22) inches and with a diameter of thirty-six (36) inches. When

rock, hard-pan, stumps and roots, and any undesirable material is encountered, the pit should be dug a minimum nine (9) inches greater than the approximate required depth. All undesirable material should be removed and replaced with topsoil.

- d) New trees shall be planted at the same level or slightly higher than it had been at the nursery. Back-fill used around a tree in the planting process shall be of good quality topsoil free of stones, roots, weeds and other undesirable material. Peat moss may be mixed with topsoil backfill but under no circumstances should dry peat moss be used in the mixing process. A saucer should be left around the tree. Trees should be mulched and artificially watered to stimulate good root, stem and leaf growth. Mulching should be of well-rotted manure or wood chips within the saucer area. When wood chips are used, a commercial fertilizer should be used prior to placement of chips.
- e) New trees should be staked with a two by two inch by eight foot (2" x 2" x 8') hardwood stake or snow fence stake. A cross tie, in the form of an "X," should be installed to support the tree and tied in such a manner that the wind does not cause the tree to de-bark upon the stake. The trunk should be wrapped to prevent sun-scald or winter damage from animals.

J. Maintenance Standards. The owner/lessee or responsible party of the property shall be responsible for continued maintenance of all landscaping materials and areas. Proper maintenance shall be accomplished by the following standards:

1. All plant growth in landscaped areas shall be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a hazard.
2. All planted areas shall be maintained with a proper, neat, and orderly appearance, clear of undesirable undergrowth, and free from refuse and debris.
3. All landscaped areas must be irrigated to provide an adequate water source, or must otherwise be designed to ensure the long-term survival of landscaping materials.
4. All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first. Replacement plants shall conform to the standards that govern the original installation.

#### 1257.10 **Manufactured and Modular Homes**

A. Manufactured Home as defined under [Chapter 1270.02.125](#) (Definitions) of this Zoning Code shall not be permitted as a residence in the Village, except as specified in [Section 1257.20](#) (Temporary Buildings and Uses).<sup>8</sup>

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<sup>8</sup> Amended Ord. 27-2006; Effective August 1, 2006



- B. Modular Homes as defined under [Chapter 1270.02](#) (Definitions) of this Zoning Code shall be permitted in all districts where single-family residences are permitted and shall be treated the same as conventional site-built residences with respect to minimum building size, lot area, yard setbacks and other restrictions applicable to single-family residences in the same district.

#### 1257.11 **Open Storage and Display of Material and Equipment**

The open storage and display of material and equipment incident to permitted or conditional non-residential uses shall be confined to the rear yard and shall be permitted provided the area used for open storage and display shall be effectively screened from all adjoining properties by means of walls, fences or plantings.

- A. Walls or fences shall be a minimum of four (4) feet in height without advertising thereon.
- B. In lieu of such wall or fence, a strip of land not less than ten (10) feet in width and shall be landscaped with an evergreen hedge or dense planting of evergreen shrubs not less than four (4) feet in height. All plantings shall be maintained at this height and in a suitable living condition to maintain the effect of shielding such storage from external view of the parcel.

#### 1257.12 **Performance Standards**

Commercial, manufacturing, processing, cleaning, servicing, testing or repair activities, and any other operation that is materially injurious, jeopardizes health, degrades the quality of life, reduces the value of property, or results in an unreasonable interference with the use and enjoyment of an adjacent premises or the community at large by reason of: emission of smoke, dust, particular matter, or toxic or noxious materials; generation of noise, vibration, odors, glare, heat, or electromagnetic disturbances; fire or explosive hazards; or creation of any other nuisance; shall be held to the following supplementary requirements and performance standards. The violation of the restrictions contained in this Section is hereby declared to be a public nuisance.<sup>9</sup>

- A. Exceptions.<sup>10</sup> The provisions of this Section shall not apply to the emission of a nuisance for the following purposes:
  - 1. Alerting persons to the existence of an emergency;
  - 2. In the performance of emergency work;
  - 3. Events officially sponsored and/or approved by government officials or educational institutions, such as festivals, fireworks, parades, sporting events, marching bands, etc.;

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<sup>9</sup> Amended Ord. 27-2006; Effective August 1, 2006

<sup>10</sup> Amended Ord. 27-2006; Effective August 1, 2006

4. Transportation noises emitted during transit by devices that are licensed and subject to noise operating standards regulated by the State of Ohio or the Federal Government, including railway locomotives and railcars;
5. The sounding of any horn or signal device on any automobile, motorcycle, bus or train, or any other vehicle as a danger signal or to give warning of intent to get into motion, or, if in motion, only as a danger signal after or as brakes are being applied and decelerating of the vehicle has begun;
6. The blowing of any whistles or sirens or use of lights to give notice of the time to begin or stop work;
7. Noise resulting from temporary construction activity that occurs between 7 a.m. and 10 p.m.; and
8. Agricultural activities when the activities are not in conflict with federal, state or local laws or are conducted in accordance with generally accepted agricultural practices.

B. **Fire Hazards and Explosives.** There shall be no storage, utilization, or manufacture of detonable materials or intense burning materials unless the express written approval of the Village Fire Chief is obtained. The Fire Chief shall have the authority to specify the location, quantity, methods of storage and methods of utilization, and otherwise exert other controls which are necessary to protect the health and safety of the residents of the Village.<sup>11</sup>

C. **Heat.** No use shall produce heat detectable without the aid of instruments beyond its lot lines.<sup>12</sup>

D. **Lighting.**<sup>13</sup> No lighting shall produce a strong, dazzling light or a reflection thereof that shall: shine directly on adjacent properties; unnecessarily illuminate any other lot and substantially interfere with the use or enjoyment of such other lot; in any way impair safe movement of traffic on any street or highway, or otherwise constitute a light nuisance.

1. *Minimum Site Lighting Requirement.* All exterior lighting shall enhance the safety of persons and the security of the buildings:

- a) All developments with less than ten (10) parking spaces shall only be required to provide exterior lighting at all exterior doorways.
- b) All developments with ten (10) or more parking spaces shall provide exterior lighting for all exterior doorways, pedestrian pathways and vehicular use areas.

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<sup>11</sup> Amended Ord. 27-2006; Effective August 1, 2006

<sup>12</sup> Amended Ord. 27-2006; Effective August 1, 2006

<sup>13</sup> Amended Ord. 27-2006; Effective August 1, 2006

2. *Plans Required.* Prior to approval of zoning or building permits for commercial and industrial developments, a photometric computer printout of the lighting model approved by a professional engineer registered in the State of Ohio shall be submitted for review and approval to assure that lighting restrictions are followed and light trespass is minimized. The plan shall show the location, the height above grade, the type of illumination, the source lumens, and the luminous area for each luminaire proposed.
3. *Height of Lighting Fixtures.* The maximum height of any luminaire shall not exceed the maximum building height permitted in the Zoning District. Outdoor sport facility lighting fixtures may not exceed a maximum height of up to eighty (80) feet.
4. *Spacing of Lighting Fixtures.* Lighting poles shall be spaced apart a minimum distance of approximately four (4) times the mounting height.
5. *Full Cut-Off Fixtures.* All exterior lighting used to light vehicular use areas, off-street parking areas, and pedestrian pathways shall utilize "full-cutoff" type lighting fixtures. Any lighting used to illuminate any off-street parking areas shall reflect light away from an adjoining residential property or the public right-of-way. Direct light from a bulb or a refractor used to illuminate a structure, vehicular use area, or pedestrian pathway shall not be permitted beyond the site.
6. *Appearance of Light.* Exterior lighting shall be maintained stationary and constant in intensity and color at all times when in use. Mercury-vapor and quartz lighting shall be prohibited. Illumination of outdoor features shall not be of a flashing, moving or intermittent type.
7. *Uplighting.* Uplighting shall only be used to light buildings, trees, shrubs, or the U.S. flag where the light is directed in such a way to prevent glare or light trespass.

E. **Noise**<sup>14</sup>

1. *General Requirements.* Noise shall be so controlled that at the property line on which such noise is produced it will not be a level above that normally perceptible from other development in the area or from the usual street traffic observed at the street right-of-way line of the lot, except normal construction activity or an occasional blast required in normal operation and produced in such a manner as not to create a hazard. All noise generated from a lot shall be in compliance with applicable State and Federal environmental protection regulations.
2. *Maximum Sound Levels by Receiving Land Use Category.* It shall be unlawful for any person to cause a sound from a stationary source located on any private or public property which exceeds the sound level limits set forth in the following

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<sup>14</sup> Amended Ord. 27-2006; Effective August 1, 2006

table for the receiving land use category. As indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the sound emitting use is located.

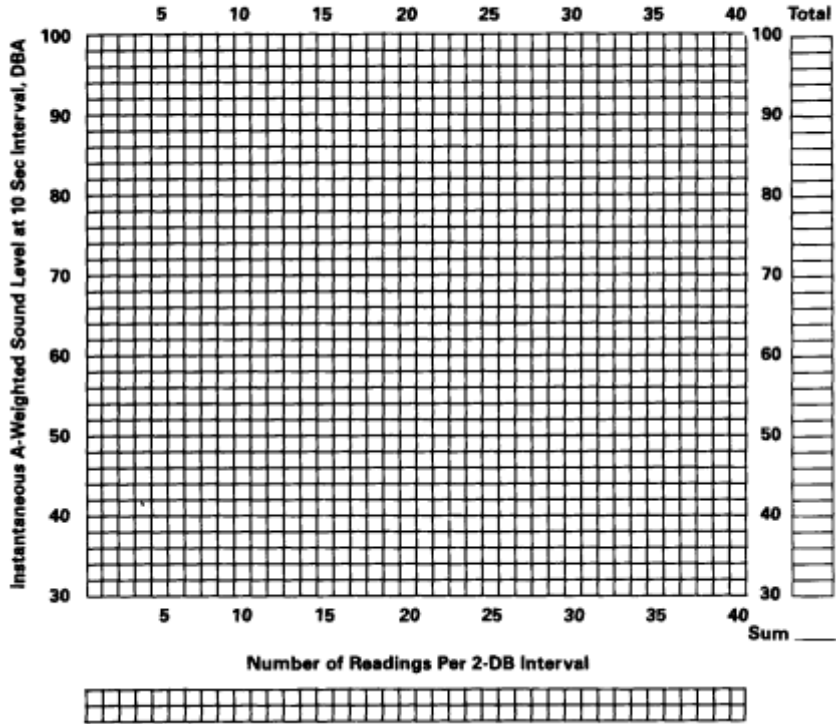
<b>MAXIMUM SOUND LEVELS BY RECEIVING LAND CATEGORY (All values are L<sub>eq</sub> (1 hour))</b>				
<b><u>SOUND SOURCE</u></b>		<b><u>RECEIVING LAND USE CATEGORY</u></b>		
<u>Zoning District</u>	<u>Applicable Hours</u>	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>
Residential	7 a.m. - 10 p.m.	55	60	65
	10 p.m. - 7 a.m.	45	50	65
Commercial	7 a.m. - 10 p.m.	60	65	65
	10 p.m. - 7 a.m.	50	55	65
Industrial	7 a.m. - 10 p.m.	65	70	75
	10 p.m. - 7 a.m.	55	60	75

- a) The standards established in the table set forth above are expressed in terms of the Equivalent Sound Level (L<sub>eq</sub>), which must be calculated by taking 100 instantaneous A-weighted sound levels at 10-second intervals and computing the L<sub>eq</sub> in accordance with the tables set forth in [Paragraph 5](#) (Guide for Compilation of Data on Noise Levels) below.
  - b) An A-weighted filter, constructed in accordance with the specifications of the American National Standards Institute which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this section. All decibel (dB) measurements shall be expressed in dB(A) to reflect the use of this A-weighted filter. Measurements shall be made by a duly authorized individual who is knowledgeable in the proper use of the measurement equipment.
  - c) Measurements shall be taken at the closest boundary line of the receiving lot to where the sound emitter is located in the slow response, A-weighting mode of the sound level meter.
3. *Impact Noises.* Impact noises are sounds that occur intermittently rather than continuously. Impact noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of 10 dB(A) in excess of the figures listed in [Paragraph 2](#) (Maximum Sound Levels by Receiving Land Use Category) above, except that this higher level of permissible noise shall not apply from 10 p.m. to 9 a.m. when the adjacent lot is zoned residential. Impact noise shall be measured using the fast response, A-weighting mode of the sound level meter.

4. *Peak Level Sound Limit.* A peak level sound limit, for any duration of time, is hereby established at 120 dB(A). Measurement shall be made in the slow response, A-weighting mode of the meter.
  
5. *Guide for Compilation of Data on Noise Levels*

**Community Noise Measurement Data Sheet**

Site No. \_\_\_\_\_ Packet No. \_\_\_\_\_ Cluster \_\_\_\_\_ Area \_\_\_\_\_



Location \_\_\_\_\_  
 Operators \_\_\_\_\_  
 Date \_\_\_\_\_ Day M Tu W Th F Sat Sun  
 Time \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  
 Wind Speed \_\_\_\_\_ km/h ( \_\_\_\_\_ mph)  
 Air Temperature \_\_\_\_\_ °C ( \_\_\_\_\_ °F)

**Master Check ( )**  
 Battery OK \_\_\_\_\_ Replaced \_\_\_\_\_  
 Settings A \_\_\_\_\_ Slow \_\_\_\_\_  
 Calibrations Set to \_\_\_\_\_ DB End \_\_\_\_\_ DB

**Miscellaneous (after data coll.)**  
 Background Noise Sources \_\_\_\_\_  
 Unusual Situations or Interferences \_\_\_\_\_  
 Comments \_\_\_\_\_

Description	Evaluation
_____ V Quiet	_____ V Accept
_____ Quiet	_____ Acceptable
_____ M Quiet	_____ M Acceptable
_____ Noisy	_____ Unacceptable
_____ V Noisy	_____ V Unaccept

**Code for identifiable simple noise sources**

Transportation	Machinery
E—Emer Veh	C—Construction
G—Gen. Avia	Y—Yard Maint
J—Jet	F—Factory
H—Helicopter	Q—Household
R—Railroad	<b>Other</b>
T—Truck	D—Door
A—Auto	P—People Noise
B—Bus	X—Unidentifiable
M—Motorcycle	
S—Service Veh	
V—Off-Rd Veh	

Further Comments \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Computational Work Sheet  
to Hand-Calculate  $L_{eq}$   
from Sound Level Meter  
Measurements Recorded  
on Data Log**

A	B	C	D
Noise Level Band, dB	Count	Relative Noise Energy	Relative Total Noise Energy
100	x	=	
98	x	79,400	=
96	x	50,100	=
94	x	31,600	=
92	x	20,000	=
90	x	12,600	=
88	x	7,910	=
86	x	5,010	=
84	x	3,160	=
82	x	2,000	=
80	x	1,260	=
78	x	794	=
76	x	501	=
74	x	316	=
72	x	200	=
70	x	126	=
68	x	79.4	=
66	x	50.1	=
64	x	31.6	=
62	x	20.0	=
60	x	12.6	=
58	x	7.94	=
56	x	5.01	=
54	x	3.16	=
52	x	2.00	=
50	x	1.26	=
48	x	79	=
46	x	501	=
44	x	316	=
42	x	200	=
40	x	26	=
38	x	.0294	=
36	x	.0501	=
34	x	.0316	=
32	x	.0200	=
30	x	0.126	=
SUM B = _____		SUM D = _____	
SUM D/SUM B = _____		$L_{eq}$ = _____	

**Data Requirements:**

- Each noise reading must be taken at a standard time interval between measurements.
- Each noise level recorded is the instantaneous level

**Step Procedure**

- 1 Enter number of counts per noise level in Column B.
- 2 Multiply the counts in Column B by the number in Column C and enter the result in Column D
- 3 Add all values in Column B to determine Sum B, add all values in Column D to determine Sum D, and divide Sum D by Sum B.
- 4 Locate the value in Column C that is approximately equal Sum D/Sum B. The corresponding value in Column A is equal to  $L_{eq}$ . Interpolate to the nearest 0.5 dB

**Example**

Given the following count data, find  $L_{eq}$

Noise Level	Number of Occurrences
81	
82	2
80	0
78	5
80	—
78	5
76	11
74	4
72	—

Using Steps 1—4 gives

A	B	C	D
81			
82	2 x	2,000	= 4,000
80	0 x	1,260	= 0
78	5 x	794	= 3,970
76	11 x	501	= 5,511
74	4 x	316	= 1,264
72	0 x	200	= 0

Sum B = 22, Sum D = 14,745  
Sum D/Sum B = 670  
 $L_{eq}$  = 70 dB

- by linear interpolation in Column C and Column A

6. Any sound that exceeds the stated limits, above, shall constitute a nuisance.
- a) The Zoning Inspector shall order an immediate halt to any sound which exposes any person to sound that exceeds the peak level sound limit, except those excluded pursuant to subparagraph (b). Within two (2) days following issuance of such an order, the Zoning Inspector shall apply to the appropriate court for an injunction to replace the order.
  - b) No order pursuant to subparagraph (a) shall be issued if the only persons exposed to sound that exceeds the peak level sound limit are exposed as a result of (a) trespass; (b) invitation upon private property by the person causing or permitting the sound; (c) employment by the person or a contractor of the person causing or permitting the sound.
- F. **Odor**. No land use shall emit odorous gases or other odorous matter in such quantities as to be offensive or hazardous at any point on or beyond its lot lines. Any manufacturing process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. Any odors generated from a lot shall be in compliance with applicable State and Federal environmental protection regulations.<sup>15</sup>
- G. **Particular Emissions**. The emission of dust, dirt, fly ash, fumes, vapors or gases which can cause any damage to human health, to animals, to vegetation or to property, or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission, is herewith prohibited. Any particular emissions generated from a lot shall be in compliance with applicable State and Federal environmental protection regulations.<sup>16</sup>
- H. **Radioactivity or Electrical Disturbance**. No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation of any equipment any point other than that located at the source of such activity.<sup>17</sup>
- I. **Toxic and Hazardous Substances**. No toxic substance shall be emitted or otherwise discharged into the atmosphere, ground, surface waters or ground water. No storage, use or transport of toxic or hazardous substances shall be permitted unless such activity is in full compliance with applicable State and Federal environmental protection regulations and the express prior written approval of the Village Fire Chief.<sup>18</sup>
- J. **Trash**. The storage of trash or waste materials, including but not limited to discarded household goods, discarded commercial products, industrial byproducts, and other

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<sup>15</sup> Amended Ord. 27-2006; Effective August 1, 2006

<sup>16</sup> Amended Ord. 27-2006; Effective August 1, 2006

<sup>17</sup> Amended Ord. 27-2006; Effective August 1, 2006

<sup>18</sup> Amended Ord. 27-2006; Effective August 1, 2006

similar materials shall not be visible from the property line on which such materials are being stored or otherwise placed. All such materials shall be housed in an appropriate container or enclosure, excepting trash that is properly placed in an appropriate enclosed container at an assigned location for regularly schedule trash pickup. In all cases, there shall be full compliance with applicable zoning district standards.<sup>19</sup>

- K. **Vibrations**. No use shall cause earth vibrations or concussions detectable without the aid of instruments beyond its lot lines with the exception of vibration produced as a result of construction or demolition operations.<sup>20</sup>
- L. **Enforcement of Performance Standards**<sup>21</sup>. For the general purpose of nuisance abatement and control, the Zoning Inspector shall have, in addition to any other authority currently conferred, the power to: conduct, or cause to be conducted, research, monitoring, and other studies related to the determination of compliance with the performance standard.
- a) Upon presentation of proper credentials, the authorized personnel may enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner.
  - b) When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this ordinance may exist.
  - c) Such inspection may include administration of any necessary tests.
2. Any person who exceeds the allowable performance standards of this ordinance shall receive either a written order to cease or abate the violation immediately. If the violation is generated in the course of normal business operations and its immediate abatement would negatively impinge upon the business operation, the written order shall provide a maximum of thirty (30) days to abate the violation. It is incumbent upon the person charged with exceeding the allowable performance standards to show that immediate cessation is either not technologically feasible or would create a financial hardship.
3. Any person subject to an order issued by the Zoning Inspector shall comply with such order until (a) the violation is brought into compliance with the performance standard cited in the order as determined by the Zoning Inspector; or (b) a judicial order has superseded the order.
4. If the order to cease or abate the violation is not complied with, or is complied with and then violated again within sixty (60) days, the person responsible shall be charged with a violation of this Ordinance and be subject to a fine of up to the maximum imposed in **Chapter 1241** (Enforcement) for each violation.

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<sup>19</sup> Amended Ord. 27-2006; Effective August 1, 2006

<sup>20</sup> Amended Ord. 27-2006; Effective August 1, 2006

<sup>21</sup> Amended Ord. 27-2006; Effective August 1, 2006



- M. Variances for Performance Standards. In carrying into effect its powers to grant variances from this Section, the Board of Zoning Appeals shall be guided by the criteria as provided in [Chapter 1242.03\(b\)](#) (Powers and Jurisdiction). In all cases, the burden of proof shall be on the emitter to demonstrate the technological infeasibility of controls and/or the hardship that would be imposed if controls were installed.

## 1257.13 Ponds

### A. General Requirements

1. All ponds shall require a minimum parcel area of five (5) acres.
2. All ponds shall require a permit and meet requirements of [Chapter 1241.04](#) (Application and Issuance of Zoning Permits), which includes written application for a zoning permit accompanied with a Site Plan, including an elevation view of the pond.
3. Ponds shall conform to the U.S. Soil Conservation Service specifications and recommendations.
4. Ponds which abut more than one (1) lot and or serves as an accessory use for more than one (1) lot, and all of the respective lots associated with the pond shall be platted in accordance with applicable subdivision regulations.
5. Lots containing ponds used for drainage retention shall be platted in accordance with applicable subdivision regulations.

### B. Area and Design Requirements

1. Minimum pond surface area shall be one half ( $\frac{1}{2}$ ) acre. Maximum surface area shall not exceed twenty-five (25) percent of the net acreage of the parcel.
2. The side slope of a pond shall be horizontal to vertical at a ratio of 3:1 except where a beach is desired. This ratio shall be maintained to a minimum depth of nine (9) feet.
3. Beach areas may be sloped no less than at a horizontal to vertical ration of 10:1 and shall not exceed twenty-five (25) percent of the pond surface area.
4. Ponds shall be graded not to exceed four (4) feet in height so it will not obstruct an adjoining property owner's view. Excess dirt may be redistributed on the parcel, but may not be removed from the site unless determined in the Site Plan approval that it is deemed necessary for landscaping or to provide adequate drainage of the site.
5. To prevent adverse effects of drainage to adjoining properties, a drainage system shall be installed to accommodate overflows and surface drainage from pond development, and then diverted to a suitable outlet or drainage ditch.

C. Setback

1. A pond shall have a one hundred (100) foot minimum setback from any roadway right-of-way centerline.
2. Ponds shall have a side and rear yard setback of not less than ten (10) percent of the width of the parcel, with a minimum setback of fifty (50) feet.
3. A pond shall be located no closer than one hundred (100) feet to any sanitary or storm water facility.

D. Refilling. The refilling of an area which has been excavated for the development of a pond shall be considered waste disposal and shall meet the requirements as set forth by the Board of Health for solid waste disposal under ORC 3734.05.

E. Requirement for Issuance of Permit. Provide a written description of location and sketch showing location on site (plan view and elevation view).

**1257.14 Private Tennis Courts**

Private tennis courts shall be permitted in any "S" or "R" District with the following requirements:

- A. A Site Plan shall be submitted showing dimensions, and location of the court in relation to property lines, utility easements, sanitary facilities where applicable, and setbacks from property lines. The Site Plan shall be subject to review and approval by the Planning Commission.
- B. Courts shall not be placed over any sanitary or storm water facility or within any public right -of-way.
- C. Maximum court dimensions shall be 120 x 60 feet (or 7,200 square feet) in area.
- D. The Site Plan shall indicate drainage flow and where appropriate, a drainage system shall be installed with suitable outlet, to prevent adverse effects of drainage onto adjoining properties.
- E. Courts shall be fenced when court surface is within twenty (20) feet of a property line. The fence shall not exceed ten (10) feet in height and be separated from the property line with landscaping and/or plant screening.
- F. Lighting where provided shall be so arranged as to reflect away from adjoining residential properties or public way.
- G. A written description and a sketch showing location on the site (plan view and elevation view) shall accompany the permit application.

#### 1257.15 Residential Dwellings<sup>22</sup>

- A. Recreational Vehicles, Mobile Homes, and Manufactured Homes. Recreational vehicles, mobile homes, and manufactured homes that do not qualify as “permanently sited manufactured homes,” as defined under [Section 1270.02.126](#) (Definitions) of this Zoning Code, shall not be permitted as a residence in the Village.
- B. Mixed Residential and Commercial Uses. Where a residential unit(s) is contained within the same building as a Commercial Use, residential buildings shall have a separate entrance passageway for the residential use, and parking spaces shall be provided for each dwelling unit.

#### 1257.16 Sexually-Oriented Businesses<sup>23</sup>

- A. Purpose for Regulation of Sexually-Oriented Business. These regulations are not adopted for the purpose of restricting or prohibiting any protected speech associated with sexually-oriented business land uses. The Planning Commission and Village Council have reviewed secondary effect studies of sexually-oriented businesses undertaken by various cities and are aware the U.S. Supreme Court and lower federal courts have recognized a number of possible secondary effects of sexually-oriented businesses, including: decline of character and property values of a community’s commercial and residential neighborhoods and quality of life; diminished use of public facilities, particularly facilities expected to be used by children or used for religious or charitable purposes; increase of crime (e.g., prostitution, drug sales); spread of disease, particularly communicable and sexually transmitted diseases; degeneration of the social and moral order; and harm to children. The following reasonable, specific, and uniform regulations are imposed upon sexually-oriented businesses to preserve and protect the public health, safety, convenience, comfort, prosperity, and general welfare given these documented harmful secondary effects of sexually-oriented businesses on adjacent neighborhoods and specific land uses.
- B. Permitted Uses. Permitted sexually-oriented businesses are limited to the following uses, more specifically defined herein:
  - 1. sexually-oriented cabarets/movie houses;
  - 2. sexually-oriented media stores;
  - 3. sexually-oriented motels; and
  - 4. sexually-oriented shops.

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<sup>22</sup> Amended Ord. 27-2006; Effective August 1, 2006

<sup>23</sup> Amended Ord. 27-2006; Effective August 1, 2006

C. Prohibited Uses and Activities

1. Specifically prohibited sexually-oriented businesses, more specifically defined herein, include:
  - a) sexually-oriented encounter centers;
  - b) sexually-oriented escort agencies;
  - c) sexually-oriented nude modeling studios;
  - d) sexually-oriented spas; and
  - e) sexually-oriented viewing booths.
2. Other prohibited uses and activities include:
  - a) Accessory or Second Principal Uses. A sexually-oriented business use may not be an accessory use. No two sexually-oriented business uses may be located on the same premises or on the same lot.
  - b) Obscenity. It shall be prohibited for a person to knowingly or intentionally display or depict obscene material, as defined herein, in any establishment or land use.
  - c) Sexual Touching and Encounter Activities. It shall be prohibited for an employee, patron, or any other person at a commercial establishment to intentionally touch an employee, patron or other person or the clothing of a employee, patron, or other person while displaying specified anatomical areas or performing specified sexual activities.
  - d) Gambling. No sexually-oriented business establishment games, machines, tables, or implements shall be used for gambling.

D. Required Separation of Uses

1. Sexually-oriented uses shall not be located within five hundred (500) feet of any residentially or agriculturally zoned districts, schools, training facilities for persons with mental or physical disabilities, child day care facilities or centers, libraries, museums, churches, parks, playgrounds, swimming pools, pool and billiard halls, video arcades, pinball arcades, social service facilities or neighborhood centers, or other public gathering places, family-oriented uses, or recreational facilities established primarily for the activities of minors.
2. No sexually-oriented business shall be permitted within a one thousand (1,000) foot radius of any bar, tavern, or other establishment regulated by the Ohio division of liquor control offering the sale of beer or intoxicating liquor for consumption on the premises in combination with live entertainment.
3. No sexually-oriented business shall be permitted in a location which is within one thousand (1,000) feet of another sexually-oriented business.
4. *Measurement.* Measurement for the required separation of uses shall be made in a straight line, without regard to the intervening structures or objects, from the nearest point of a property line where a sexually-oriented business is conducted,

to the nearest property line of the separated district or land use listed above. The presence of any other political boundary shall be irrelevant for the purpose of calculating and applying the distance requirements of this section.

5. Regulations pertaining to the required separation of uses may be waived or modified by the Planning Commission, duly advised by the Village Solicitor, provided that the applicant provides affidavits of one hundred (100) percent of the property owners and resident freeholders within a one thousand, five hundred (1,500) foot radii of the proposed sexually-oriented business, giving their consent to the establishment of a sexually-oriented business, and if the Planning Commission determines:
  - a) That the proposed use will not be contrary to the public interest or injurious to nearby properties or children and that the spirit and intent of this Section will be observed.
  - b) That the proposed use will not enlarge or encourage the development of a skid row or similar depressed area.
  - c) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal, residential or commercial reinvestment, or renovation of a historical area.
  - d) That all applicable regulations of this Section will be observed.

E. External Visual Impact

1. All building openings, entries, windows, etc. of sexually-oriented businesses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from or audio impact on any adjacent public or privately-owned areas, sidewalk or street.
2. *Landscaping Requirements.* All sexually-oriented businesses shall provide a landscaped buffer for the rear and side yards behind the front setback line. Such buffer shall include a six (6) foot solid masonry wall or fence on the interior of vegetative plantings which effectively shield visibility of fifty (50) percent of the wall or fence.

F. Separation Requirement for Live Performers. No person shall engage in a live performance of sexually-oriented material except upon a stage elevated at least eighteen (18) inches above floor level.

1. All parts of such stage, or a clearly designated area thereof within which a person engages in a live performance of sexually-oriented material, shall be a distance of at least six (6) feet from all parts of a clearly designated area in which patrons may be present.
2. The stage or designated area thereof shall be separated from the area in which patrons may be located by a barrier or railing the top of which is at least three feet above floor level.

3. No person engaging in such live performances or patron may extend any body part over or beyond the barrier or railing. This requirement shall be noted in a sign affixed to the stage, barrier, or railing in such a manner to be easily visible and legible to patrons.
4. Tips or other gratuities shall not be given to performers or employees of a sexually-oriented business establishment by placing such tips or gratuities directly on the performer or employee or in or on the performer's or employee's costume or clothing. Any such tips or gratuities shall be placed by patrons into a receptacle provided by management for receipt of such tips or gratuities.

G. Other Regulations

1. *Animals.* No animals, except seeing-eye dogs required to assist the blind, shall be permitted at any time at or in any sexually-oriented business establishment.
2. *Restrooms.* All restrooms in a sexually-oriented business establishment shall be equipped with standard toilets, sinks, and other traditional lavatory facilities. No sexually-oriented materials or live performances shall be provided or allowed at any time in the restrooms of a sexually-oriented business establishment. Separate male and female restrooms shall be provided for and used by sexually-oriented business establishment employees and patrons.
3. *Age Restriction.* No minor shall be admitted to, or employed by, a sexually-oriented business establishment. No minor shall be allowed or permitted to purchase or receive, whether for consideration or not, any sexually-oriented material or other goods or services at or from any sexually-oriented business establishment.
4. *Signage.* Exterior identification signage is permitted in accordance with [Chapter 1259](#) (Sign Regulations). However, to limit exposure of sexual images to minors, no exterior signage shall include verbal or written messages, graphics, drawings, or other illustrations which publicly display specified sexual anatomical areas or specified sexual activities.
5. *Parking.* Off-street parking shall be provided in accordance with [Chapter 1258](#).

1257.17 **Self Service Storage Facilities**

A. General Requirements

1. Self storage facilities shall be limited to rental of storage units, pickup and deposit of stored items.
2. Radioactive material, explosives and flammable or hazardous chemicals shall be prohibited from storage. This prohibition shall be included in the lease agreement of storage units. A copy of the lease agreement shall be filed with zoning administrator as a condition of the permit.

B. Specific Requirements

1. *Lot area:* Minimum lot area shall be two (2) acres.
2. *Lot coverage:* Maximum lot coverage of units and storage areas shall be 50% of gross lot area.
3. *Setbacks:* The following minimum setbacks shall apply except as required under [Section 1251.07](#) (Development Standards).

<u>Yard</u>	<u>Setback</u>	<u>When Abutting or Opposite</u>
a) Front yard:	50 feet	All Districts
b) Side or rear yard:	25 feet	"S" Yard or "R" District
	15 feet	"C" or "M" District

4. *Height:* Height of structures shall be in conformance with structures or equal the average height of structures on properties abutting or opposite to self storage facilities where no adjacent structures exist, the maximum height shall be fifteen (15) feet at the highest point of the building (see [figure 1270.02-2](#)).
5. *Lighting:* Lighting shall be provided to illuminate facility entrances, driveways, parking areas and storage entrance areas and so arrange to reflect light away from adjoining residential property or any public way.
6. *Site Plan:* A Site Plan shall be required and subject to provisions under [Section 1241.06](#) (Site Plan Requirements).
7. *Signs:* Shall conform to requirements under [Chapter 1259](#) (Signs).
8. *Pavement:* All roadways and parking areas shall be paved with concrete, asphalt or bituminous pavement.
9. No door openings for any storage unit shall be constructed facing any residentially zoned property.
10. Fencing, walls, or landscaping/plant screening shall be required around the perimeter of the facility.
11. *Special Requirements:* Where abutting or opposite an "S" or "R" District:
  - a) Fencing or walls shall consist of decorative wood or stone, decorative concrete block or similar materials compatible with surrounding residential dwellings.
  - b) Hours of operation shall be no earlier than 7:00 A.M. or later than 8:00 P.M. daily.

12. *Parking and external storage of vehicles:* A minimum of one (1) parking or external storage space shall be provided for each one thousand (1,000) square feet of enclosed storage space. Storage or parking spaces for vehicles shall not extend forward of the rear building setback line nor be within any required yard.

#### 1257.18 **Shopping Centers**

Shopping Centers shall meet the following requirements:

- A. Contain a minimum lot area of five (5) acres.
- B. Be platted in accordance with applicable subdivision rules and regulations.
- C. Subject to a traffic survey prepared by qualified experts indicating the effect of the proposed shopping on adjacent streets and roadways, also indicating the anticipated points of origin and direction and the amount of traffic flow to and from the shopping center.

#### 1257.19 **Swimming Pools**

- A. Swimming pools shall not be permitted in a side or front yard in an "S" or "R" District.
- B. Swimming pools exceeding twelve (12) feet in diameter or length as applicable to the shape of the pool and has greater than two (2) feet of depth capacity for water shall be enclosed or protected by an adequate fence at least forty-two (42) inches high with all access gates provided with adequate key-type locks. Above ground or portable pools forty-two (42) inches or higher, require no fence if the pools are free of any cross bars and the ladder is withdrawn when the pool is not in use and placed where small children cannot reach it.
- C. Pools shall be a minimum of ten (10) feet from any property line.
- D. A written description of the location and a sketch showing location on the site (plan view and elevation view) shall accompany the permit application.

#### 1257.20 **Temporary Buildings and Uses**

Temporary buildings, structures or uses and/or temporary open storage of equipment shall be permitted subject to approval and conditions by the Board of Zoning Appeals under [Chapter 1242](#) (Board of Zoning Appeals).

#### 1257.21 **Trash Receptacle Area**

- A. A trash receptacle area, when provided, shall be in a designated location that does not interfere with any aisle, driveway, parking space, loading space, or other circulation area.



- B. The location of this area, if provided, shall be shown on the Site Plan with proper loading and maneuvering space and for the purpose of location, shall be treated as an accessory structure.
- C. A trash receptacle area shall be screened from view on three (3) sides in accordance with [Section 1257.09.F](#) (Screening of Outdoor Storage and Product Display). Except in the "C-2" Village Commercial District, such areas shall not be located in any required yard or set back.
- D. All trash receptacles shall be maintained according to requirements of the Board of Health.

**1257.22 Regulation and Registration of Portable/Temporary Storage Units (PSU) \***

A. Definitions.

- 1. "Portable / temporary storage unit", as used in this chapter, means any self-contained box type unit delivered by truck to your home or business, placed outside, and used for temporary storage.

B. Registration and Permits.

- 1. No person shall have a PSU delivered to their home or business without first registering with the Division of Building & Zoning and receiving a permit for such unit.
- 2. The registration required by subsection (a) hereof shall be made by filing with the Division on forms furnished for such purpose the following information:
  - a. Name and home address of the applicant;
  - b. Detailed site diagram showing the location where the PSU will be located on the premises;
  - c. Dates on which the PSU is to be used and located on the premises;
  - d. Number of previous permits issued to the applicant for the same premises on which the PSU is to be located during the calendar year.
  - e. Such other information as may be required to facilitate regulation of the PSU as determined by the Chief Village Zoning Official or their designee.
- 3. Permits shall be valid for thirty (30) calendar days. Commencement date shall be the date of placement of the PSU upon the subject premises. No more than (3) three permits may be issued to the same applicant for the same premises in any calendar year. Placement of the PSU shall not exceed a combined total of ninety (90) consecutive days upon the same premises.
- 4. There shall be no fee for such permit.

C. Responsibilities of Permit Holder.

1. No permit holder shall continue to allow the PSU to remain upon the designated premises after the expiration of the permit date or in violation of the terms specified in the permit.

D. Penalty.

1. Whoever shall fail to obtain a permit or shall violate any provision of this section shall be guilty of a minor misdemeanor.
2. Each calendar day of any violation herein shall be a separate violation of this section.

### **1257.23 Solar Collectors**

- A. Applicability. The standards of this Section apply to all solar collector energy conversion systems that are accessory to a principal structure.
- B. Definition of solar collectors as used in this Chapter: Any of several devices that absorb and accumulate solar radiation for use as a source of energy.
- C. Location without a Special Use Permit. Solar collectors are permitted when:
1. Collectors are attached to a building and are not visible from a street.
  2. Collectors are visible from a street as long as the collectors are installed parallel to the roof slope and project no more than 12 inches from the roof surface.
- D. Location with a Special Use Permit. Special Use Permit approval is required in accordance with Section 1246 (Special Uses) when the solar collector energy conversion system is a stand-alone facility or cannot meet the standards of Section 1257.23(B) above.

### **1257.24 Wind Energy Systems**

The purpose and intent of this chapter is to provide a uniform set of standards, conditions, and procedures for the placement of Micro Wind Systems, Small Wind Energy Systems, and Meteorological towers on property located within the Village of Whitehouse.

Further, the intended purpose is to

1. Allow the use of wind energy system towers and anemometers of limited height.
2. Protect residential areas from any potentially adverse visual or noise impacts of wind energy systems or related devices and structures.
3. Provide for a land use that will provide an energy source with low associated environmental impacts.
4. Provide for the removal of abandoned or noncompliant wind energy turbine generator towers, anemometer towers, and/or related devices or structures.

- A. Definitions as used in this Chapter (1257.24)

**Anemometer:** A device for measuring the speed of wind.

**Decibel (db):** The measurement of sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 db (A-weighted). In general, this means the quietest sound we can hear is near 0 db (A-weighted) and the loudest we can hear without pain is near 120 db (A-weighted).

**Meteorological Tower:** Means a facility consisting of a tower and related wind-measuring devices, which is used solely to measure wind speed and directions preliminary to construction of a Small Wind Energy System.

**Micro Wind System:** Means a building-mounted wind system (either a Vertical or Horizontal Axis Turbine) that has a Rated Capacity of 10kW or less, (3kW or less for residential properties). The building and the wind system cannot exceed the maximum permitted building height for that district by more than thirty (30%) percent. Micro wind systems shall also include similar systems such as wind spiral and all other building-mounted wind energy systems except for wind cubes.

**Rated Capacity:** The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

**Small Wind Energy Systems:** Means a free-standing wind energy electric generation system consisting of a tower, a turbine, and associate control or conversion electronics, with a rated capacity of 10kW or less per tower. This includes, but is not limited to, storage, electrical collection and supply equipment, and transformers.

**System height.** The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

**Tower height:** the height above grade of the fixed portion of the tower.

**Turbine:** The parts of a wind system including the blades, generator and tail. The definition of a turbine includes both Horizontal Axis Wind Turbines (HAWT) and Vertical Axis Wind Turbines (VAWT).

**Wind Cubes:** A special type of horizontal axis wind turbine with a cubical shroud around the blade assembly that is used to increase the velocity of the wind for a given blade capture area.

## B. General Requirements.

1. Meteorological Towers shall not be allowed for time periods in excess of twelve (12) month and shall be removed prior to the installation of the wind energy system for which they are measuring. When required, a request to install a meteorological tower shall be included in the application to install either a Micro Wind System or a Small Wind Energy System.
2. Building-mounted micro wind systems shall be regulated by applicable building and electrical codes, and the building and wind system height cannot exceed the maximum permitted building height for that district by more than thirty (30%) percent. Any building

mounted micro wind system that exceeds the maximum permitted building height by more than thirty (30%) percent shall be subject to review by the Whitehouse Planning Commission as a major site plan review unless a Special Use Permit (SUP) is required.

3. Maximum System Height – Freestanding Small Wind Energy Systems shall not exceed one hundred (100') feet in a residential or commercial zoned district and one hundred twenty (120') feet in an industrial or agricultural zoned district. Small wind energy systems must be on a freestanding tower, constructed without guy wires.
4. Setbacks. Small wind Energy systems shall be set back from all property lines a distance equal to 120 percent of the height of the structure including the blades to maintain an adequate fall zone. Micro Wind Energy Systems shall be set back from all property lines a distance equal to fifty (50%) of height of the structure including the blades to maintain an adequate fall zone. No part of the Small Wind Energy System or Micro Wind System structure may extend closer than ten feet (10') to the property line.
5. Sound. Micro Wind Systems and Small Wind Energy Systems shall not exceed 60 dbA, measured from the closest property line. The facility owner and operator shall make reasonable efforts to minimize shadow flicker of any proposed wind energy system.
6. Turbine Clearance. No portion of any turbine shall extend within fifteen (15') feet of the ground, overhead utility lines, parking areas, driveways and sidewalks.
7. Automatic Over-Speed Controls. All Micro Wind Systems and Small Wind Energy Systems shall be equipped with manual (electronic or mechanical) and automatic over-speed controls to limit the blade rotation speed to within the design limits of the Micro Wind Systems or Small Wind Energy System.
8. Tower color. Tower colors shall be off-white, gray, or neutral subdued tones, such as earth tones of green or brown. Towers shall not be finished in bright or vivid colors, nor shall the tower be used for advertising of any kind.
9. Lighting. Micro Wind Systems and Small Wind Energy Systems shall not be artificially lighted, except as required by the FAA.
10. Climb prevention. Small Wind Energy Systems shall not be climbable up to fifteen (15') feet above the ground surface.
11. In "C", "M" or "A" zoning districts, a wind energy system with more than ten (10) kilowatts shall be allowed with a SUP.
12. Wind Energy Systems shall not be permitted in any front yard.
13. No more than one (1) Wind Energy System shall be permitted in a residential district per dwelling and accessory building. More than one (1) wind energy system may be allowed in a "C", "M" or "A" district with a special use permit.

### C. Permit Application Requirements

Before installation of any Wind Energy System or other wind-powered generator, a zoning and

building permit must be obtained from the Village of Whitehouse. A detailed site plan shall be required in accordance with the requirements of 1257.24 (B) above.

### **1257.25 Internet Sweepstakes Terminal Cafés**

The purpose and intent of this Chapter is to provide for the inclusion of certain business premises commonly known as “internet cafés” or computerized sweepstakes terminal cafés and/or similar operations and premises upon which computerized sweepstakes devices and similar operations are operated as a business enterprise for the entertainment of the public. The objectives of this Chapter are to be in accord with state laws as same apply to the operation of said businesses and/or gaming, designs of chance, gambling or similar activities through the use of these computerized terminal devices upon said business premises.

This Chapter shall be liberally construed and applied to promote the benefit, purposes and objectives of the overall Zoning Code of the Village of Whitehouse, Lucas County, Ohio. If any provision of this Chapter or application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision and neither the remainder of this Chapter nor the application of any such provision to other persons or circumstances shall be thereby affected.

1. Definitions. As used in this Chapter:

- (a) “Internet sweepstakes terminal café” means any individual premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises has other business purposes of any nature whatsoever.
- (b) A “computerized sweepstakes device” means any computer, machine, game or apparatus of similar technical nature which, upon the insertion of a card, coin, token, or similar object, or upon payment of anything of value or consideration wherein a product or service is provided, may be operated by the public generally for use as a contest of skill, chance, entertainment, or amusement, whether or not registering a score and in which no way intends to encourage gambling.
- (c) “Owner” means any person who possesses a pecuniary interest, either directly or indirectly, in an internet sweepstakes terminal café as set forth herein.
- (d) “Person” means any natural person, firm, partnership, association, corporation or any other form of business organization.
- (e) “Premises” means the building or portion thereof used for conducting the operation of an Internet Sweepstakes Terminal Cafés.

2. The Village of Whitehouse may exercise all lawful powers of local self government regarding the operation of INTERNET SWEEPSTAKES TERMINAL CAFÉS and employees thereof, within the Village limits and may adopt and enforce within the Village limits any local police, sanitary and similar regulations regarding the operation of same. The regulations may include but are not limited to regulations as to the hours of operation, interior confinement and requirements, and requirements that internet sweepstakes terminal cafés and employees thereof may be required to obtain licenses or permits to operate and/or to be employed by an internet sweepstakes terminal café.

The authority granted under this section may provide for civil sanctions and fines for violations of regulations established under Village zoning resolutions and regulations.

3. Internet sweepstakes terminal cafés shall be allowed only in C-3 and/or M-1 designated areas as shall appear in the zoning operational matrix Chapter 1252.02, No. 49, of the Codified Ordinances of the Village of Whitehouse, Lucas County, Ohio, and upon issuance of a special use permit in accord with Chapter 1246 of the Codified Ordinances of the Village of Whitehouse.
4. The internet sweepstakes terminal cafés shall not be located within a one thousand foot (1,000') radius of any point on the perimeter of any other operating internet sweepstakes terminal café. The distance shall be measured by radius extending from the closest property line of the proposed internet gaming café to the closest property line of any existing internet gaming café based on the exterior property line or line of demarcation of the leasehold interest of the existing gaming café.
5. Internet sweepstakes terminal cafés shall not be located within a five hundred foot (500') radius of any public park, public playground, private or public school, church, or other designated area as defined for the activities of minors within the Village. The distance shall be measured by the radius from the closest property line or line of demarcation of the leasehold interest of the proposed internet sweepstakes terminal café to the closest property line of the prohibited use class.
6. The Village shall reserve the right to review facilities established under this section after they have been in operation for a period of one (1) year upon the recommendation of the Zoning Administrator and/or initiation by the Village Council. Any failure to conduct an annual review does not rescind the right of future annual review.
7. The Village shall reserve the right to revoke a special use permit for any and all internet sweepstakes terminal cafés for any of the following reasons:
  - (a) An applicant for said special use permit gave false or misleading information in the application of any document or diagram related to the operation of the internet gaming café;
  - (b) An applicant or employee is knowingly allowed possession, use or sale of controlled substances upon the premises;
  - (c) An applicant or employee of the applicant has knowingly allowed prohibited or unlawful acts, including gambling, prostitution, availability of public internet sexually oriented business or activity upon the premises;
  - (d) An applicant or employee knowingly operated the business premises during a time when the applicant's special use permit was suspended;
  - (e) An applicant has been convicted, pleaded guilty or nolo contendere to any offense or violation of Chapter 2915 (Gambling) of the Ohio Revised Code or any violation of any resolution, or other ordinance or state law equivalent to any offenses contained in Chapter 2915 (Gambling) of the Ohio Revised Code;
  - (f) An applicant or agent or employee of the applicant has knowingly allowed

gambling activities prohibited by Chapter 2915 (Gambling) of the Ohio Revised Code to occur in or on the special use permit premises. The term “gambling” shall have the same meaning as it is defined in the Ohio Revised Code Section 2907.02;

- (g) An applicant is delinquent in the payment to Lucas County or the State of Ohio as and for taxes or fees related to the internet gambling cafés;
  - (h) The Liquor Control Commission has revoked under Section ORC 4301.25 a permit held by any one of the persons named in the application;
  - (i) Allowing any individual, including but not limited to a patron, customer, or employee who is under eighteen (18) years of age on the premises of an Internet Sweepstakes Terminal Café;
8. Penalty. Whoever violates any of the provisions of this Chapter is guilty of a misdemeanor of the fourth degree for the first offense, and for each offense thereafter is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed on each day during or which a violation occurs or continues.

#### 1257.26 Charitable Donation Collection Bins \*

- A. Charitable donation collection bins are prohibited in any district, except at the designated Village Recycling Center located on Waterville Street in conjunction with the Department of Public Service Maintenance Yard.
- B. Annual permits must be obtained before placement of a charitable donation collection bin at the Village Recycling Center. Permit forms are available at Village Hall and should be submitted annually and approved by the Zoning Enforcement Officer before placement.
- C. Only charitable organizations in good standing will be allowed to place a donation collection bin in the Village. Prior to placement, proof of such charitable organization status, i.e. 501 (C)(3) documentation and other appropriate local state and federal certificates as required by the Village Zoning Officer, must be furnished.
- D. The charitable organization shall be responsible for maintenance, upkeep, and servicing of the donation bin. Bins shall be emptied of donated goods by the charitable organization at least every two weeks or sooner to prevent overflow of the goods from the bin. In the event the charitable organization fails to adequately maintain and service the bin, the Zoning Enforcement Officer will issue a written notice of violation. If the violation is not corrected within five days, the organization will be required to immediately remove the bin for the remainder of the calendar year.
- E. The Zoning Enforcement Officer and/or Public Service Director shall keep a list of qualified charitable organizations who wish to place a bin at the Village Recycling Center. Only four (4) bins are permitted at any time. If violations occur with any particular bin owned by a charitable organization, that permit will be revoked and the next organization on the list will be given the opportunity to place a bin for the remainder of the calendar year.