



**ZONING CODE REVISIONS, EFFECTIVE APR 27, 2016**

ARTICLE 3

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

3.01

Construction of Language

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed" or "arranged to be used or occupied", the word "building" includes the word "structure" and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

Terms not herein defined shall have the meaning customarily assigned to them.

3.02

DEFINITIONS

Accessory Use or Building: Is a use or building on the same lot width and of a nature customarily incident or subordinate to those of the main use or building. All temporary and/or manufactured carports shall be considered detached accessory buildings, even if attached or anchored to a main structure.

Adult Entertainment Facility: A facility having significant portion of its function as adult entertainment which includes the following listed categories:

Adult Book/Video Store: An establishment which deals in books, magazines or other periodicals, or video tapes of which at least ten percent, as measured by publicly accessible display area, are distinguished or characterized by an emphasis on depictions or descriptions relating to specified sexual activities or specified anatomical areas, as

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defined below, or an establishment having an area devoted primarily to the sale or display of such materials.

**Adult Entertainment Theater:** A facility used to a substantial extent for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas as herein defined for the observation by patrons therein.

**Adult Entertainment Business:** Any establishment involved in the sale of services or products characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons, the exposure or presentation of specified anatomical areas or physical contact of live males or females, and characterized by including but not limited to photography, dancing, stripping, reading, massage, male or female impersonation, and similar functions which utilize activities as specified below.

**Specified Sexual Activities:**

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio;
- (c) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.

**Specified Anatomical Areas:**

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernable turgid state even if completely and opaquely covered.

**Agriculture:** See Farm.

**Alley:** Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

**Alteration:** Is any change, addition, or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

**Antenna (Dish):** A dish-shaped antenna to be used for receiving communication signals from satellites.

**Apartment:** A suite of rooms or a room in a multi-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit as herein defined.

**Apartment Hotel:** A building designed to contain both dwelling units and individual guest rooms or suites of rooms, which building may include accessory uses such as a cigar store, coffee shop, etc., when such uses are accessible only from the lobby.

**Auto Service Station:** Is a place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and the servicing of and general repair and engine rebuilding of automobiles, not including storage of inoperable vehicles.

**Auto Repair Station:** Is a place where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body frame, or fender straightening and repair; overall painting and undercoating of automobiles.

**Basement:** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average

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grade to the ceiling. A basement shall not be counted as a story, except as provided in paragraph 105.

**Block:** Is a parcel of land bound on all sides by a street or streets.

**Board of Zoning Appeals:** Means the Board of Zoning Appeals of Bellbrook, Ohio.

**Boarding House:** (Rooming House) a building other than a hotel, where for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for three or more persons, but not exceeding ten sleeping rooms. A rooming house or a furnished room house shall be deemed a boarding house for the purposes of this Ordinance.

**Building:** Is any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind.

**Building Height:** Is the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

**Building Line:** Is a line formed by the face of the building, and for the purposes of this Ordinance, the building line is the same as a front setback line.

**Carport:**

(a) Temporary: A building with a rigid roof comprised of metal, wood or fiberglass, open on two or more sides for the purpose of storing of vehicles and RVs. All temporary freestanding carports and/or manufactured carports shall be considered detached accessory buildings, even if attached or anchored to a

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main building. No tarpaulins or colored plastic covers are permitted to cover a vehicle housed in a temporary carport.

(b) **Permanent:** A carport may be built as a permanent addition to a residence and formed by extension of a main building, comprised of the same building materials and having the same characteristics as the main building.

**Carry-Out:** A place of business where beverages and prepared food are sold for consumption off the premises.

**Channel:** A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

**Clinic:** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professions.

**Club:** Is an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

**Commercial Vehicles:** Any vehicle licensed by the State of Ohio as a commercial vehicle or used for a commercial purpose.

(a) **Commercial Semi-trailer:** Any commercial vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle, also defined as a vehicle having wheels only at the rear, the front resting on a tractor or towing vehicle.

(b) **Commercial Tractor:** Every motor vehicle having motive power designed or used for drawing other vehicles and not so constructed as to carry any load thereon, or designed or used for drawing other vehicles while carrying a portion of such other vehicles or the load thereon, or both.

(c) **Commercial Trailer:** Any commercial vehicle designed or used for carrying persons or property wholly on its structure and for being drawn by a motor vehicle.

(d) **Commercial Truck:** Any automotive vehicle designed to carry loads and which exceeds ten thousand pounds (10,000 lbs.) in weight unloaded.

**Conditional Use:** A conditional use is a use permitted only after review of an application by the Board of Zoning Appeals, such review being necessary because the provisions of this Ordinance covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by the Ordinance. A conditional use does not require "undue hardship" in order to be allowable. The conditional uses that are found in this Ordinance appear as "special approval" on recommendation by the Planning Board and review by the Board of Zoning Appeals. These land uses could not be logically allocated to one zone or another, or the effects of such uses could not be definitely foreseen as of a given time.

**Conditional Use Permit:** This is a permit issued by the Board of Zoning Appeals to allow certain specific developments that would not otherwise be allowed in that particular zoning district where the land is located. These permits are issued only after the applicant has followed the procedures as stated in this Ordinance. Development under a Conditional Use Permit differs from a zoning change in that it is much more specific. The applicant submits plans and if approved, he must follow those plans exactly or re-apply for a permit before deviating from that plan.

**Convalescent or Nursing Home:** An establishment which specializes in providing necessary services to those unable to care for themselves.

**Council:** Means the Municipal Council of Bellbrook, Ohio.

**Deck:** An open platform projecting from a wall of a building, surrounding a pool or free-standing, which is supported by structural pillars or posts at grade or by the principal building structure itself. Free-standing decks shall be considered accessory buildings for setback purposes only.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

**District:** Is a portion of the incorporated are of the municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

**Drive-In:** Is a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, or within a building or structure on the same premises and devoted to the same purpose as the drive-in service.

**Dwelling Unit:** Is a building, or a portion thereof, designed for occupancy of one (1) family for residential purposes and having cooking facilities.

**Dwelling, One-Family:** Is a building designed exclusively for and occupied exclusively by one (1) family.

**Dwelling, Two-Family:** Is a building designed exclusively for occupancy by two (2) families living independently of each other.

**Dwelling, Multiple-Family:** Is a building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

**Encroachment Lines:** Lines marking the limits of the floodway and the limit of encroachment of fill into the floodplain.



**Erected:** Includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises, which are required for the construction. Excavation, fill, drainage, and the like, shall be considered a part of erection.

**Essential Services:** Is the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

**Excavation:** Is any breaking of ground, except common household gardening and ground care.

**Family:** Is one or two persons or parents, with their direct lineal descendants and adopted children together with no more than two persons not so related, or a group of not more than three persons who need not be related, living together as a single housekeeping unit in a dwelling unit.

**Farm:** All of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a continuous parcel of five (5) acres or more in area; provided, further, farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries; but establishments keeping fur-bearing animals, or operate riding or boarding stables, commercial dog kennels, non commercial stone quarries or gravel or sand pits, shall not be considered farm hereunder unless combined with bona fide farm operations on the same continuous tract of land of not less than twenty (20) acres. No farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the

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slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption by persons residing on the premises.

**Fence:** Any structure other than part of a building which encloses or partially encloses any premises.

**Filling:** Is the depositing or dumping of any matter onto, or into the ground, except common household gardening and ground care.

**Flood Control:** The construction of dikes, river embankments, channels or dams for protection from floods.

**Flood Plain:** A channel and the areas adjoining a channel which may be flooded.

**Flood Profile:** A graph, chart or longitudinal plot along a stream or river of maximum water surface elevations of a flood.

**Flood Proofing:** A combination of structural and non-structural additions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, and contents of buildings. Walls must be water-tight and structural components must be able to resist hydrostatic and hydrodynamic loads and effects of buoyancy.

**Floodway Fringe:** The part of the regulatory flood plain which is outside the floodway. One boundary of the floodway fringe is the encroachment line and the other boundary is the landward boundary of the regional flood.

**Floor Area:** For the purposes of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the interior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches, except basement areas designed and used for dwelling or business purposes.

**Floor Area Gross:** The sum of the gross horizontal areas of all the several floors of a building or buildings, including interior balconies and mezzanines. All horizontal measurements are to be made between the exterior faces of walls including the walls of roofed porches having more than one (1) wall. The gross floor area of a building shall include the floor area of accessory buildings, on the same lot, measured the same way.

**Floor Area: (For the purpose of computing parking):** That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandising, such as hallways, stairways and elevator shafts, or for utilities or sanitary facilities, shall be excluded from this computation of "Floor Area." Measurements of useable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**Garage: Parking:** A space or structure or series of structures for the temporary storage or parking of motor vehicles, not primarily of commercial vehicles or for dead storage of vehicles, having no public shop or service in connection therewith, other than for the supplying of motor fuels and lubricants, air, water and other operating commodities wholly within the buildings, to the patrons of the garage only and not readily visible from other properties nor advertised for sale on the exterior of the building.

**Garage: Private:** An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats, and similar vehicles owned or used by the occupants of the building to which it is accessory.

**Garage: Service:** Any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repair or kept for remuneration, hire or sale.

**Grade (Ground level):** The average of the finished ground level at the center of all walls of a building. In the case where walls are parallel to and within five (5) feet of a sidewalk, the above ground level shall be measured at the sidewalk, unless otherwise defined herein.

**Hedge:** Any planting which encloses or partially encloses any premises.

**Home Occupation:** An activity, office or occupation conducted in a dwelling unit where such use is clearly incidental and secondary to the residential use. Please refer to Article #5, Sec. 5.03, Accessory Uses, (2), Home Occupations.

**Hospital or Sanitarium:** A public or semi-public facility that provides accommodations and continuous service for the sick and injured including obstetrical, medical and surgical care.

**Hotel:** A building occupied as the more-or-less temporary abiding place of individuals who are lodged with or without meals in which there are ten (10) or more sleeping rooms and no provision made for cooking in any individual room or apartment. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms.

**Junk Yards (Salvage Yards):** Is an open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packaged, disassembled, or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A "Junk Yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings. Two (2) or more inoperative or unlicensed vehicles shall be construed to be a junk yard.

**Kennel:**

(a) any lot or premises used for the sale, training, boarding or breeding of dogs, cats or other animals for commercial purposes;

(b) or any lot or premises upon which are kept more than four (4) animals which are over the age of four (4) months and which are either dogs or cats. Kennels are not included as permitted principal or accessory uses in any Residential Zoning Districts and so are not allowed in those Districts;

(1) an excess number of dogs and/or cats on premises that exist as of the effective date of this ordinance (May 26, 2010) may remain without penalty until the permitted number of dogs and/or cats is achieved on the premises. No additional dogs and/or cats may be added to any such lot or premises until the number of dogs and cats is reduced to three (3) or less.

**Loading Space:** Is an off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or material.

**Lot:** Is a parcel of land occupied, or to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this Ordinance. Every lot shall abut upon and have permanent access to a public street and have a minimum frontage of forty (40) feet thereon.

**Lot Area:** Is the total horizontal area within the lot lines of the lot.

**Lot, Corner:** A lot which has at least two (2) contiguous sides, each abutting upon a street for its full length.

**Lot, Interior:** Is any lot other than a corner lot.

**Lots, Through:** Is any interior lot having frontages on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

**Lot, Coverage:** Is the part or percent of the lot occupied by buildings including accessory buildings.

**Lot Line:** The lines bounding a lot as defined herein.

**Front Lot Lines:** In the case of an interior lot, is that line separating said lot from the street. In the case of a corner lot, or double frontage lot, it is that line separating said lot from either street.

**Rear Lot Lines:** Is that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot. In the case of a corner lot, the rear lot line is opposite the front lot line of least dimension.

**Side Lot Line:** Is any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot Width:** Is the horizontal distance between the side lot lines, measured at the two points where the building line or setback line intersects the side lot lines.

**Lot of Record:** Is a parcel of land, the dimensions of which are shown on a document or map on file with the County Recorder or in common use by Municipal or County Officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

**Main Building:** Is a building in which is conducted the principal use of the lot upon which it is situated.

**Main Use:** Is the principal use to which the premises are devoted and the principal purpose for which the premises exist.

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**Major Thoroughfare:** Is an arterial street which is intended to serve as a large volume traffic way for both the immediate municipal area and the region beyond, and may be designated a major thoroughfare, parkway, freeway, expressway or equivalent term to identify those streets comprising the basic structure of the street plan. Any street with a width, existing or proposed, of eighty (80) feet shall be considered a major thoroughfare.

**Major Thoroughfare Plan:** The official plan, as adopted by the Planning Board, of the major highways and streets, on file in the Office of the County Recorder, including all amendments and supplements subsequently adopted.

**Master Plan:** Is the comprehensive plan approved by the Planning Board including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the municipality and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

**Mezzanine:** Is an intermediate floor in any story occupying not to exceed two-thirds (2/3) of the floor area of such story.

**Mobile Home:** Is a detached single-family dwelling to be located on foundation supports, designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment to outside systems; and designed to be transported after fabrication on its own wheels, or in flatbed or other trailers or detachable wheels.

**Motel:** Is a series of attached, semi-detached or detached rental units containing a bedroom, bathroom and a closet space. Units shall provide for overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicle. It may include all facilities specified under the definition of "Hotel" in Item 58.

**Non-Conforming Building:** Is a building or portion thereof, lawfully existing at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

**Nursery:**

(a) **Plant Material:** Is a space including accessory building or structure, for the growing or storage of live trees, shrubs or plant materials not offered for retail sale on the premises, including products used for gardening or landscaping.

(b) **Retail:** Is a space including accessory building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping.

**Off-Street Parking Lot:** Is a facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) vehicles.

**Open Space:** That part of a zoning lot, including courts or yards which is open and unobstructed from its lowest level to the sky, accessible to all tenants upon the zoning lot.

**Open Space (Common):** That area either dedicated to the public or commonly owned and/or available to all the residents of a Planned Unit Development Area.

**Parking Space:** Is hereby determined to be a minimum area of two hundred (200) square feet, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.

**Personal Wireless Services:** Services as defined in Title 47, Section 332(c)(7) of the United States Code.



**Personal Wireless Service Antenna:** A device for transmitting or receiving electromagnetic signals which carry information essential to the provision of a Personal Wireless Service.

**Personal Wireless Service Facility:** Facilities for the provision of Personal Wireless Services.

**Personal Wireless Service Site:** A place where Personal Wireless Service Facilities are maintained and operated.

**Personal Wireless Service Tower:** A structure for supporting a Personal Wireless Service Antenna.

**Planned Development:** Land under unified control, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, site plans and design principles for all buildings as intended to be located, constructed, used and related to each other, and for other uses and improvements on the land as related to buildings. Development may be a single operation or a definitely programmed series of development operations including all lands and buildings, with a program for provision, operations and maintenance of such areas, improvements and facilities necessary for common use by the occupants of the development.

**Planning Board:** Means the Planning Board of Bellbrook, Ohio.

**Pool, Swimming:** A structure constructed or placed below ground or above ground, which is capable of containing water in excess of eighteen inches (18") of depth. For yard placement and setback purposes only, in-ground and above ground swimming pools are considered accessory buildings.

**Public Utility:** Is any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, telephone, transportation or water.

**Recreational Vehicle (or RV):** A vehicle which is used primarily for pleasure and/or recreational purposes. For purposes of determining the length, width and/or height of a recreational vehicle, the dimensions as stated on an official Certificate of Title will be used. Types of recreational vehicles include: boats, motor homes, travel trailers, campers, jet skis, snowmobiles, off road vehicles, unattached truck caps and trailers of any kind.

**Regional Flood:** A flood having an average frequency of occurrence on the order of once in 100 years, although such a flood may occur in any year.

**Regulatory Flood Plain:** The channel and areas adjoining a channel which may be covered by the regional flood.

**Restaurant:** An establishment whose primary business is serving food and beverages to patrons for consumption inside the building.

**Row House or Town House:** A two (2) story row of three (3) or more attached one (1) family dwellings, each unit of which extends from the basement to the roof.

**Story:** Is that part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. If the floor level directly above a basement is more than six (6) feet above grade, such basement shall be considered a story.

**Story (Half):** Is an uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet, with a clear height of seven feet six inches (7'6"). For the purposes of this Ordinance, the usable floor area is only that area having at least four feet (4') clear height between floor and ceiling.

**Street:** Is a public thoroughfare which affords the principal means of access to abutting property.

**Structure:** Is anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on or in the ground.

**Temporary Use or Building:** Is a use or building permitted by the Board of Zoning Appeals to exist during periods of construction of the main building or use, or for special events.

**Tent:** Any structure used for living or sleeping purposes, or for sheltering a public gathering constructed wholly or in part from canvas, tarpaulin, or other similar materials and shall include: shelter provided for circuses, carnivals, side shows, revival meetings, camp meetings, and all similar meetings or exhibitions in temporary structures.

**Trailer Court, (Mobile Home Park):** Any plot of ground upon which two or more trailer coaches or mobile homes occupied for dwelling or sleeping purposes may be located.

**Transient Occupancy:** The right to use, occupy or possess, the use, occupancy or possession of the following: dwelling unit, dwelling, one family; dwelling, two family; or a dwelling, multiple family; or a portion of any of the aforementioned, for a period of 25 consecutive calendar days or less.

**Transient Rental:** The renting, letting, subletting, leasing or subleasing of a: dwelling unit; a dwelling, one family; dwelling, two family; or a dwelling, multiple family; or a portion of any thereof for "transient occupancy".

**Use:** Is the purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

**Variance:** Is a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause practical difficulty owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variances are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

**Wall:** Any solid structure other than part of a building which encloses or partially encloses any premises.

**Watercourse:** A natural or artificially constructed channel in which a flow of water occurs either continuously or intermittently in a definite direction.

**Yards:** The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, as defined herein:

(a) **Front Yard:** Is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

(b) **Rear Yard:** Is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building.

(c) **Side Yard:** Is an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

**ARTICLE 5**

**R-1AA, R-1A, R-1B ONE FAMILY RESIDENTIAL DISTRICTS**

5.01

**INTENT**

These districts are the most restrictive of the residential districts. The purpose and intent is to provide for an environment of predominantly low density single unit dwellings plus certain other facilities which serve the residents living in the district and to regulate transient occupancy within the city to protect and preserve the permanency of residential neighborhoods, protect property values, and ensure the comfort and safety of the residents.

5.02

**PERMITTED PRINCIPAL USES**

(1) One family dwellings, not including trailers or tent dwellings.

(2) Churches and similar places of worship: Provided such use is adjacent to a school or commercial area and/or access is by means of roads designated on primary or secondary thoroughfares by the Major Thoroughfare Plan.

(3) Parks and playgrounds.

(4) Public and private elementary, junior and senior high schools.

(5) Parish houses and convents in conjunction with churches or schools.

(6) Nursery schools operated and housed in a church building or other established house of worship.

5.03

**ACCESSORY USES**

(1) Private garage for storage of vehicles of residents and employees.

(2) A home occupation is an occupation conducted in a dwelling unit, provided that:

(a) A home occupation shall be conducted entirely within the principal residential structure with no more than 25% of the total floor area to be used in connection with the home occupation. No home occupation shall be conducted in any accessory structure, nor shall the storage of equipment related to the home occupation be contained within any accessory structure;

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(b) There shall be no change in the external appearance of the building or premises resulting from the home occupation nor shall there be any storage of products, equipment or materials on the lot. No more than one sign, not to exceed 1 square foot in total sign area, is permitted on the building, which shall be non-illuminated and mounted flat against the wall of the principal building;

(c) Only members of the household residing on the premises where the home occupation occurs may be employed full or part-time in the home occupation. In no case shall a home occupation be permitted to operate earlier than 8 AM or later than 6 PM. An exception to this requirement is for direct sale of consumer products where parties for the purpose of taking orders or selling merchandise are held;

(d) Traffic generated by the home occupation shall not create safety hazards nor be substantially greater in vehicular size nor exceed on any continual basis the average number of vehicle trips that would normally be expected. Vehicles having a cargo area greater than twenty-two (22) feet in length or having dual rear axles are prohibited;

(e) No area on the residential property may be created to park any vehicles or equipment related to the home occupation. Any home occupation which requires the creation of parking in addition to the parking areas already provided for the single family residence shall not be operated within a residential zoning district. The use of a home occupation shall not reduce or render unusable areas provided for required off-street parking for the dwelling unit;

(f) A home occupation shall not produce heat, cold or dampness, create noise, vibration, fire, explosion, light, glare, dust, smoke, fumes or odor, electric or electronic disturbances detectable to normal sensory perception by a person located off the premises or beyond the walls of the dwelling; and

(g) A home occupation shall be conducted in accordance with all other city regulations and state and federal laws and licensing requirements.

**Article # 5, One Family Residential Districts**

(3) Pools: Swimming pools for use by residents and guests only: See Accessory Buildings (Section 18.05); and Fences: Walls and Hedges (Section 18.06).

(4) Signs Permitted as Accessory Uses: See Permitted Signs (Section 18.20).

5.04

**CONDITIONAL USES**

The following uses are allowed in any R-1 residential district provided a conditional use permit is granted by the Board of Zoning Appeals as provided in Section 20.08 of this Ordinance, and further provided, that all buildings allowed by such conditional use permit shall be set back from all lot lines a minimum of three (3) feet for each one foot of building height.

(1) Public recreation and community center buildings and recreation areas or buildings operated by membership clubs for the benefit of their members and not for gain; provided that any principal building, accessory building or outdoor swimming pool shall be located not nearer than 200 feet from any adjoining land zoned for a residential use.

(2) Public owned or leased buildings, public utility buildings, telephone exchanges, transformer stations and sub-stations, and garages and maintenance buildings.

(3) Institutions of higher learning and libraries.

(4) Cemeteries, when extension of existing cemeteries.

(5) Golf courses.

(6) Public and private school facilities (excluding buildings used for instructional purposes, which are permitted principal uses in R-1AA, R-1A, R-1B, R-2 and R-3 districts).

5.05

**YARD REQUIREMENTS**

See Section 7.09, Schedule of Yard and Lot Requirements.

5.06

**BUILDING HEIGHT REGULATIONS**

In any R-1 residential district, no building shall be erected in excess of two and one half (2 ½ ) stories or thirty-five (35) feet in height.

5.07                    **ACCESSORY PARKING**

Two car spaces for each dwelling unit. Parking for other uses; see Section 18.16.

All driveways and parking spaces located in the front, side and rear yards shall be required to have a paved surface which shall be defined as a hard, smooth surface made principally of asphalt, concrete, portland cement, brick or pavers that will bear travel. Existing unpaved driveways or parking spaces located in the front or side yards must be paved if additions or extensions are proposed to be made to any part of the unpaved driveway or parking space in the front or side yards. The parking of vehicles on the lawn or in other areas not designated for parking, shall be prohibited.

No more than two (2) recreational vehicles may be parked upon any lot within these residential zoning districts at any time.

5.08                    **SIGNS**

See Section 18.20 for sizes and location of permitted signs.

5.09                    **TRANSIENT RENTAL REGULATIONS:**

No dwelling unit or dwelling, one family or a portion of any thereof in the R-1AA, R-1A, or R-1B districts shall be used as a transient rental.



**ARTICLE 6**

**R 2 TWO FAMILY RESIDENTIAL DISTRICT**

6.01

**INTENT:**

The purpose and intent of this district recognizes the existence of older residential areas of the municipality where larger houses have been or can be converted from single family to two family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. This district also allows the construction of new two family residences where slightly greater densities are permitted. This Article also regulates transient occupancy within this district and protects and preserves the permanency of residential neighborhoods, protects property values and ensures the comfort and safety of the residents.

6.02

**PERMITTED PRINCIPAL USES**

- (1) Two-family dwellings.
- (2) Those uses permitted in R-1 Districts.

6.03

**ACCESSORY USES**

Those accessory buildings and accessory uses customarily incidental to the Permitted Principal Uses in this district.

6.04

**CONDITIONAL USES**

- (1) Those conditional uses permitted in R-1 Districts.
- (2) Mobile Home Courts.
- (3) Nursery school, provided that there is compliance with State requirements regarding space for play area per child.

6.05

**YARD REQUIREMENTS**

See Section 7.09 Schedule of Yard and Lot Requirements.

6.06

**BUILDING HEIGHT REGULATION**

In any R-2 District, no building shall be erected in excess of 2 1/2 stories or 35 feet in height.

6.07

**ACCESSORY PARKING**

- (1) There shall be provided four (4) off-street parking spaces for each two family dwelling.
- (2) There shall be provided two (2) parking spaces for each one family dwelling.
- (3) All other uses - See Section 18.16

6.08

**SIGNS**

See Section 18.20 for size and location of permitted signs.

6.09

**TRANSIENT RENTAL REGULATIONS**

No dwelling unit or dwelling, two family or a portion of any thereof in the R-2 district shall be used as a transient rental.

**ARTICLE 7**

**R-3 MULTI-FAMILY RESIDENTIAL DISTRICT**

7.01

**INTENT**

The purpose and intent of this district is to allow construction of apartment buildings and condominiums and to regulate transient occupancy within this district to protect and preserve the permanency of residential neighborhoods, protects property values and ensure the comfort and safety of the residents.

7.02

**PERMITTED PRINCIPAL USES:**

- (1) Those uses permitted in R-1 and R-2 Districts.
- (2) Two family dwellings.
- (3) Apartment house and Apartment Hotels.
- (4) Multiple dwellings.
- (5) Churches and similar places of worship.
- (6) Parish houses and convents in conjunction with churches or schools.
- (7) Public community center buildings, parks, playgrounds and golf courses.
- (8) Public and parochial schools.
- (9) Public libraries.
- (10) Row houses.
- (11) Town houses.

7.03

**ACCESSORY USES:**

- (1) Garages shall be permitted for storage purposes only with no repair facilities.
- (2) Those accessory buildings and accessory uses customarily incidental to the Permitted Principal Uses in this district.

7.04

**CONDITIONAL USES:**

- (1) Those conditional uses permitted in R-1 and R-2 Districts.
- (2) Convalescent or Nursing Homes.
- (3) Dormitories and Group Housing.
- (4) Fraternities, Sororities, Clubs, Lodges, Social or Recreational Buildings or properties not for profit.

- (5) Hospitals, Clinics, Sanitariums for Human Care.
- (6) Mortuaries.
- (7) Motels.
- (8) Offices of architects, engineers and artists.
- (9) Offices of surgeons, physicians, dentists and other similar professional persons concerned with the community health and medical treatment of persons.
- (10) Offices in which the personnel will be employed for work in executive, administrative, legal, writing, clerical, stenographic, accounting, insurance or similar enterprises.

7.05

**YARD REQUIREMENTS**

See Section 7.09, Schedule of Yard and Lot Requirements.

7.06

**BUILDING HEIGHT REGULATIONS:**

In any R-3 District, no building shall be erected in excess of two and one half (2 1/2) stories or thirty-five (35) feet in height.

7.07

**ACCESSORY PARKING**

- (1) In any R-3 District, there shall be provided two (2) off street parking spaces per dwelling unit.
- (2) There shall be provided one (1) off street parking space for each two (2) roomers.
- (3) For parking space required for other than residential uses, see Section 18.16.

7.08

**SIGNS:**

See Section 18.20 for size and location of permitted signs.

7.09

**TRANSIENT RENTAL REGULATIONS**

No dwelling unit or dwelling, multi-family or a portion of any thereof in the R-3 district shall be used as a transient rental.

**ARTICLE 17**

**PLANNED DEVELOPMENT**

17.01

**PURPOSES**

Planned Development zoning is of a substantially different character than other types of zoning. Because of the difference in character, special standards and procedures are hereby established to govern and guide the creation of Planned Development zoning districts.

Planned Development zoning is a privilege to be earned and not a right which can be claimed simply upon complying with all the standards established in this section. The Planning Board and/or Council may require any reasonable condition or design consideration which will promote proper development of and benefit to the community. It is not intended that the Board and/or Council automatically grant the maximum use exceptions or density increases in the case of each Planned Development. The Board and Council shall grant only such increase or latitude which is consistent with the benefit accruing to the City as a result of the Planned Development. As a condition for approval, each Planned Development must be compatible with the character and objectives of the zoning districts within which it is located, and each Planned Development shall be consistent with the objectives of the Bellbrook Comprehensive Plan.

Some specific purposes of the Planned Development procedures are:

- (1) To take advantage of advances in technology, architectural design and functional land use design;
- (2) To recognize the problems of population density, distribution and circulation and to allow a deviation from rigid established patterns of land uses, while maintaining control through application of defined policies and objectives;
- (3) To produce a comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development;
- (4) To permit flexibility of design in the placement, height, and uses of buildings, open spaces,

circulation facilities and off-street parking areas, and to more efficiently utilize potentials of site, characterized by special features of geography, topography, size and shape;

(5) To protect flood plains from encroachment by development within the City of Bellbrook; and

(6) To regulate transient occupancy within the residential districts to protect and preserve the permanency of residential neighborhoods, protect property values, and to ensure the comfort and safety of the residents.

17.02

**TYPES OF PLANNED DEVELOPMENT**

- PD-1 Planned Residential Development
- PD-2 Planned Business Development
- PD-3 Planned Industrial Development

17.03

**GENERAL STANDARDS FOR PLANNED DEVELOPMENTS**

(See 17.05, 17.06 and 17.07 for specific standards for respective Planned Development districts)

Before an application for Planned Development can be approved, the applicant must present evidence which clearly supports the following conclusions:

(1) The proposed development advances the general welfare of the community and the immediate vicinity.

(2) The plan is in conformity with the Comprehensive Plan.

(3) The proposed development is consistent in all respects with the purpose and intent of this Zoning Ordinance.

(4) The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development, and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development.

(5) The development will not impose an undue burden on public services and facilities, such as fire and police protection.

(6) The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a Planned Development not used for structures, parking and loading areas, or access ways, shall be landscaped or otherwise improved. The height of buildings shall be compatible with surrounding land uses as well as the general characteristics of the area to be developed and the surrounding area.

(7) Natural features such as water courses, trees and rock outcrops will be preserved, to the degree possible, so that they can be incorporated into the layout to enhance the overall design of the Planned Development.

(8) The Planned Development can be substantially completed within the period of time specified in the schedule of development submitted by the developer.

(9) Special Review of B-3, B-4 and R-3 Zoning Districts

(a) In cases where a parcel of land has been previously zoned or has been recommended for zoning to its highest business or residential use (B-4 Central Business District, B-3 Neighborhood Business District or R-3 Multi-Family Residential District), the City Manager may recommend and the City Council may require that prior to the City's issuance of a Zoning Permit for new construction on any portion of the parcel the owner/developer shall follow the plan submissions procedures for the entire parcel as described under the Planned Development Article.

(b) In such cases, because the Planning Board has already made a determination on the appropriate land use for the parcel and has recommended that the zoning be the highest possible business or residential use, a second Planning Board public hearing on the Planned Development land use shall not be required.

(c) The Planned Development procedures concerning the submission of plans shall be followed and the Planning Board shall review the preliminary development plans and forward them to the City

Council following consultation with the City's engineering consultants.

(d) The City Council shall then conduct the single Planned Development public hearing and then determine whether or not the PD-1 or PD-2 zoning and accompanying preliminary plans shall be approved.

(e) If the zoning and plans are approved, approval of the Final Plans shall follow procedures as outlined under 17.082 Final Plan Stage.

17.04

**PROCEDURE FOR APPROVAL**

(For a procedural flow-chart, see Appendix A, Planned Development).

(1) Pre-application Conference:

Prior to filing a formal application for approval of a Planned Development, the developer shall request a pre-application conference with the Bellbrook Planning Board.

The purpose of such conference is to allow the developer to present a general concept of his proposed development prior to the preparation of detailed plans. For this purpose the presentation shall include, but not be limited to the following:

(a) Written "letter of intent" from the developer establishing his intentions as to development of the land.

(b) Topographic survey and location map.

(c) Sketch plans and conceptual objectives regarding land use pattern, structure location and type, street and lot arrangement and tentative lot sizes.

(d) Tentative proposals regarding water supply, sewage disposal, surface drainage, street improvements and flood control measures.

Planning Board shall then instruct the developer to

file an application and advise the developer to familiarize himself with the Bellbrook Zoning requirements and the Comprehensive Plan affecting the proposed development. A copy of Article #17, Planned Development, shall be made available by request.

(2) Preliminary Plan:

Seven (7) copies of the Preliminary Plan of the Planned Development and the application shall be filed with the Zoning Inspector, who shall in turn forward them to the Planning Board for consideration.

The required procedure for consideration and approval of the Preliminary Plan shall be:

(a) An application for Zoning Amendment shall be secured from the Zoning Inspector. The completed application shall be filed with the Zoning Inspector accompanied by other subdivision requirements as specified in Section 17.081.

(b) The Planning Board shall study materials received and confer with other agencies of government as appropriate in the case to determine general acceptability of the proposal as submitted. In the course of such preliminary consideration, the Planning Board may request and the applicant shall supply additional material needed to make specific determinations.

(c) Following such study, the Planning Board shall hold a conference or conferences with the applicant to discuss desirable changes in the first or succeeding drafts of the Preliminary Development Plan and report.

(d) Recommendations of the Planning Board to the applicant shall be in writing, and following any such conference, agreements between the applicant and the Planning Board as to changes in the Preliminary Plan or other matters are to be recorded and acknowledged by the Planning Board and the applicant. Items on which no agreement is reached or on which there is specific disagreement shall be recorded and the applicant may place in the record the reasons for any disagreement.



(e) When the Preliminary Development Plan has been approved in principle (as a whole or with reservations specifically indicated) or when the applicant indicates in writing that no further negotiations with the Planning Board are desired before proceeding, and in any case, within sixty(60) days of the submission of the preliminary plan application, the Planning Board shall schedule the proposed plan for a public hearing, following which it shall make its recommendations to Council. Such recommendations shall indicate approval, approval with specific reservations or disapproval with reasons.

(f) In the event Council upholds an unfavorable recommendation from Planning Board, a public hearing is not required. Otherwise, Council shall schedule a public hearing for the Preliminary Plan and respective Planned Development zone designation. Within sixty (60) days, the Council shall approve the proposal outright, approve subject to conditions, or deny the proposal. Council approval shall be by ordinance.

If conditions are attached to Council approval, there shall be no change in the zoning map until such conditions are formally accepted in writing by the developer. When approved, the area of land proposed for development shall be designated PD-1 (Planned Residential District) or PD-2 (Planned Business District) or PD-3 (Planned Industrial District) and shall be used only in accordance with the uses and densities shown on the Planned Development Preliminary Plan.

(3) Approval and Recording of Final Development Plan

The purpose of such recording is to designate with particularity the land subdivided into conventional lots, as well as the dimension of other lands not so treated, into common open areas and building areas, and also to define each building site as well as the use of the land in general.

The approval and recording of the Final Development Plan may be accomplished in stages if the stages have been specified in the Construction Schedule approved with the Preliminary Plan.

Article # 17, Planned Development

(a) Upon the designation of the Planned Development district by Council, the Final Development Plan shall be presented to the Zoning Inspector who shall see that all requirements of Section 17.082 have been complied with and that the Final Development Plan is in a form suitable for recording with the Greene County Recorder.

(b) The record plot (the Final Development Plan in a form suitable for re-zoning) shall then be forwarded to the Planning Board for review and, if approved, shall be forwarded to the City Manager who shall make appropriate arrangement with the applicant, in accord with 17.02(2), to ensure the accomplishment of public improvements. The City Manager shall consult with Council concerning any land to be publicly or commonly owned and shall arrange for the necessary legal deed(s).

(c) The approved record plot shall then be submitted to the Greene County Recorder for recording within six (6) months after approval by Council.

(d) No Final Development Plan within the corporate limits of Bellbrook shall be so recorded unless it shall have the approval of Council, as indicated by the signatures of the Mayor and the Clerk of Council, inscribed thereon.

(4) Zoning Permit:

No zoning permit shall be issued by the Zoning Inspector until the Final Development Plan has been approved and duly recorded. See Article # 19, Section 19.01 of the Bellbrook Zoning Ordinance.

(5) Certificate of Zoning Compliance:

The Zoning Inspector shall issue no Certificate of Zoning Compliance until all utilities have been accepted by the City of Bellbrook in accordance with the Final Development Plan.

If all utilities, including roadways, have not been accepted by the City of Bellbrook, the Zoning Inspector may issue a Temporary Certificate of Zoning Compliance upon certification by the City Manager that the existing public utilities are functionally acceptable and adequate for the use of the premises. Should the City Manager find, while the Temporary Certificate of Zoning Compliance is in force, that the existing utilities are no longer functionally acceptable and adequate, the City Manager may order the cancellation of the Temporary Certificate of Zoning Compliance and direct the developer to vacate the premises of occupants.

The Temporary Certificate of Zoning Compliance remains in effect until all utilities, including roadways, are accepted by the City of Bellbrook at which time the Zoning Inspector will issue a permanent Certificate of Zoning Compliance.

(6) Changes in the Planned Development:

A Planned Development shall be developed only according to the approved and recorded final plan, and all recorded amendments shall be binding on the applicants, their successors, grantees and assignees and shall limit and control the use of premises (including the general internal use of buildings and structures) and location of structures in the Planned Development as set forth therein. Any deviation from the approved and recorded final plan must have Planning Board approval. Planning Board shall decide whether a change is major or minor.

(a) Major Changes:

Changes which alter the concept or intent of the Planned Development, include but are not limited to: increases in the number of units per acre; change in location or amount of non-residential land use; more than fifteen percent (15%) modification in proportion of housing types; reductions of proposed open space; significant re-design of roadways, utilities or drainage.

These changes shall be approved only by submission of a new Preliminary Plan and supporting data, by following the "preliminary approval" steps and subsequent amendment of the final Planned Development Plan with the Greene County Recorder.

(b) Minor Changes:

A minor change is any change not defined as a major change. The City Zoning Inspector and the Planning Board may jointly approve minor change in the Planned Development which do not change the concept or intent of the development without repeating the "preliminary approval" steps.

The Zoning Inspector shall enter in detail all minor changes on the official Final Development Plan on record with the Municipality of Bellbrook.

(7) Schedule of Construction:

A modification of the schedule may be approved by the City Council if the developer shall present satisfactory evidence of reasonable effort toward meeting the initial schedule and justification for the modification.

If construction falls more than one (1) year behind schedule, as determined by the City Engineer, and the developer fails to justify the delay to Council's satisfaction, Council may proceed to complete all or any part of such improvements and recover the costs thereof by laying claim to the guarantee specified in 17.082(2).

(8) Effect of Denial of a Planned Development:

If an application for a Planned Development is denied wholly or in part, then for a period of one (1) year from the date of submission thereof, the Planning Board need not consider any resubmission therefore, unless it finds substantive changes or a change in the conditions upon which the denial was based.

If a Preliminary Development Plan is approved and the Final Development Plan is thereafter disapproved, the applicant, or his successor in interest, may at any time, submit one (1) or more new versions of the Final Development Plan, so long as the new versions are in full compliance with the approved Preliminary Development Plan, including any conditions attached to said plan.

17.05

**PD-1 PLANNED RESIDENTIAL DEVELOPMENT**

(1) Policies Guiding Development:

This district is intended to provide flexibility in the arrangement and design of residential dwellings, based upon a unified development plan conceived and carried out for an entire area. Within this district, appropriate and reasonable population density is maintained while a variety of dwelling unit types is encouraged. Natural features such as topography, trees and drainage ways are encouraged to remain in their natural state to the degree possible. Such developments are generally characterized by a significant proportion of usable open space and a unified design concept with particular attention devoted to the periphery of the development, the overall objective being the compatibility of the development with its surroundings.

(2) Permitted Uses:

Permitted uses are those included as permitted and accessory uses in Articles #5, #6 and #7 of the Bellbrook Zoning Ordinance and convenience establishment as hereafter defined.

Convenience establishments as accessory uses are those established as necessary for the proper development of the community and to be so located, designated and operated to serve primarily the needs of the persons within the Planned Development Plot. Uses shall be generally limited to those uses permitted in the B-2 district, with no direct access or advertising signs for such uses to be visible from the exterior of the development. Such convenience establishments and their

parking areas shall not occupy more than five percent (5%) of the total area of the development. No separate building or structure designed or intended to be used, in whole or part, for business purposes shall be constructed within a Residential Planned Development until not less than thirty percent (30%) of the dwelling units proposed in the development plan are certified for occupancy.

(3) Area Requirements:

The minimum land area required for a Planned Residential development shall be five (5) acres. This area requirement may be reduced at the discretion of the Planning Board and City Council if it can be demonstrated that a waiver is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

(4) Density Requirements:

Any combination or cluster of housing units is permitted, provided that the average lot area per family or dwelling unit contained in the site, exclusive of the area of street rights-of-way, parking areas and commercial areas, will not be less than eighty percent (80%) of the average lot area per family required in the surrounding non-agricultural districts. This density requirement may be varied at the discretion of the Planning Board and City Council if it can be demonstrated that a waiver is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

(5) Site Design:

All housing shall be sited to preserve privacy and to ensure natural light.

Lot widths may be varied to permit a mixture of structural designs. Varied setback is encouraged.

Where feasible, housing units should be situated to abut common open space or similar areas. A clustering of dwellings is encouraged.

(6) Structure Spacing:

A minimum of fifteen (15) feet shall be maintained between principal structures.

(7) Length:

There shall be no continuous structure of town houses, attached dwellings or apartments containing more than twelve (12) dwelling units on ground floor level.

(8) Height:

The height of any residential structure within a Planned Development shall not exceed thirty-five (35) feet or 2 ½ stories. However, the Planning Board may grant an exception if it is demonstrated that additional height can be achieved with concurrent expansion of suitable open space to protect adjacent structures from adverse reduction of light and air.

(9) Setback and Screening:

A minimum setback of fifty (50) feet shall be provided along the entire perimeter of the development and retained in natural woods, or be suitably landscaped with grass and/or ground cover, shrubs and trees. Projects located adjacent to commercial or industrially zoned areas shall provide suitable screening to the residential development as adjudged by the Planning Board. Screening shall not obscure traffic visibility within fifty (50) feet of an intersection.

(10) Common Open Space:

A minimum of twenty-five percent (25%) of the total land in any Planned Residential Development shall be reserved for permanent common open space and recreational facilities for the residents or users of the area being developed. In extreme topographical

conditions, at the discretion of the Planning Board, this requirement may be reduced. Only area having minimum dimensions of fifty (50) feet by one hundred (100) feet shall qualify for computation as usable open space.

(11) Parking Requirements:

See Article #18, Section 18.16 for required spaces and design criteria.

(12) Signs:

See Article #18, Section 18.20 for size and location of permitted signs.

(13) Utilities:

All utilities including electric, telephone, gas, water and sewer lines must be buried, except when deemed unfeasible as determined by the City Engineer.

(14) Transient Rental Regulations:

No dwelling unit or dwelling, one family, dwelling, two family or dwelling multi-family or a portion thereof in the PD-1 district shall be used as a transient rental.

17.06

**PD-2 PLANNED BUSINESS DEVELOPMENT**

(1) Policies Guiding Development:

This district is provided in recognition that many commercial establishments seek to develop within unified commercial areas, usually under single ownership and control and typically called "shopping centers". Within the premises of the zone, such centers would have all the necessary services and facilities comprehensively provided in accordance with an approved development plan. Provisions of this zone are formulated to achieve harmoniously designed structures upon a well landscaped site, achieving a high degree of pedestrian-vehicular separation, all of which would be compatible with surrounding land uses.



(2) Permitted Uses:

Uses included are those permitted, accessory and conditional uses in B-1, B-2, B-3 and B-4 Business Districts and O-1, Office Building District developed in accordance with the approved Development Plan but subject to approval of the Planning Board.

(3) Arrangement of Commercial Uses:

Commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares.

The plan of the project shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding existing or potential developments.

(4) Area Requirements:

The minimum land area for a Planned Business Development shall be two (2) acres.

(5) Structure Spacing:

A minimum of twenty (20) feet shall be required between adjacent principal buildings.

(6) Setback and Screening:

A setback of at least fifty (50) feet shall be provided along the entire perimeter of the development. However, where the Planned Development adjoins a Business or Industrial District, the setback and screening requirements shall be at the discretion of the Planning Board.

Where situated adjacent to a residentially zoned area, a minimum of twenty (20) feet along the exterior property line shall be planted with an evergreen hedge or dense planting of evergreen shrubs not less than

three (3) feet in height at the time of planting. A landscaped mound adequate to provide screening may be substituted for hedge or shrubs.

In no case shall screening be placed within fifty (50) feet of a curb cut or intersection.

Vehicular access through such landscaped strip when leading from residential areas shall be permitted only for convenience of residents of adjoining residential areas, and not designed for use by the general public.

(7) Parking Requirements:

See Article #18, Section 18.16 for required parking criteria.

(8) Loading and Unloading Areas:

See Article #18, Section 18.15.

(9) Signs:

See Article #18, Section 18.20 for size and location of permitted signs.

(10) Utilities:

Wherever possible, utilities shall be housed in structures compatible with the development so as not to detract from the overall aesthetic design.

17.07

**PD-3 PLANNED INDUSTRIAL DISTRICT**

(1) Policies Guiding Development:

The provisions of this district are provided in recognition that many industrial establishments seek to develop within unified industrial areas having all necessary services and facilities comprehensively provided in accordance with a pre-determined development plan. As in the Planned Business Zone (PD-2), provisions of this zone are formulated to encourage a high degree of coordinated development upon well landscaped premises. Particular attention

is devoted to design of the periphery of the development with the objective of achieving compatibility with existing and potential surrounding land uses.

(2) Permitted Uses:

These uses will be permitted in accordance with the approved Development Plan:

- (a) Assembly plants except automobile assembly plants or plants of similar nature.
- (b) Automobile repair but no commercial wrecking, dismantling or salvage yard.
- (c) Auto service station.
- (d) Automobile, trucks, boat sales.
- (e) Bottling works.
- (f) Builders supply store.
- (g) Building and trades, including contractor's yard and utilities storage yard.
- (h) Carpet cleaning, dry cleaning and dyeing, laundry.
- (i) Cold storage plant.
- (j) Commercial greenhouse.
- (k) Dairy products manufacture.
- (l) Fabrication, processing, packaging and/or manufacture of food products and condiments excluding fish products, slaughter houses and rendering and refining of fats, oils, fish, vinegar, yeast and sauerkraut.
- (m) Fabrication, processing, packaging and/or manufacture of cosmetics, drugs, perfumes, pharmaceuticals, and toiletries.

- (n) Fabrication, processing, packaging and/or manufacture of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, textiles, tobacco, wax, wood and yarn.
- (o) Fabrication, processing, packaging, and/or manufacturing of musical instruments, toys, novelties, rubber or metal stamps.
- (p) Fabrication, processing, packaging and/or manufacture of ice, cold storage plant, bottling plant.
- (q) Farm implements and contractor equipment sales and service.
- (r) Foundry casting light weight non-ferrous metals or electric foundry, not causing noxious fumes or odors.
- (s) Fuel or coal company.
- (t) Furniture re-upholstering and repair.
- (u) Industrial research laboratories.
- (v) Inflammable liquids, underground storage only.
- (w) Lumber yards including incidental millwork, coal, brick, stone.
- (x) Monument sales including incidental mechanical operations.
- (y) Motor freight depot or trucking terminal provided, the truck entrance and exits are on to streets whose pavement width is at least thirty (30) feet between curbs.
- (z) Painting, varnishing shops.

- (aa) Personal wireless service sites.
- (bb) Plumbing supply and contracting shops including storage yards.
- (cc) Poultry killing and dressing.
- (dd) Public garages, motor vehicle and bicycle repair shops, auto paint and body shops.
- (ee) Publishing and printing.
- (ff) Railroad freight stations, but not including switching, storage, freight yards, sidings or maintenance or fueling facilities.
- (gg) Repair, rental and servicing for appliances.
- (hh) Sign contractor.
- (ii) Stone grinding, dressing and cutting.
- (jj) Storage yard for building supplies and equipment, contractors equipment, food fabrics, hardware and similar goods when located entirely within a building, provided such buildings shall not be used for wrecking or dismantling of motor vehicles.
- (kk) Television and radio broadcasting towers.
- (ll) Tin and sheet metal shop.
- (mm) Tool and die shop, wrought iron shop, blacksmith or machine shop, excluding drop hammers.
- (mm) Trailer rental and sales.
- (nn) Truck terminal.
- (oo) Veterinary clinic or kennels, animal hospital, provided that all animals are housed in buildings or enclosures which are at least five hundred (500) feet from any "R" district.

(pp) Warehouses.

(qq) Wholesale distributors.

(rr) Uses similar to the above uses and any other manufacturing or industrial enterprise, operation or process whether making, assembling, repairing, buffing, finishing, plating, polishing, tempering, packing, shipping or storing; provided that any resulting cinders, dust, flashing, fumes, gas, noise, odor, refuse matter, smoke, vapor or vibration is no greater or more detrimental to the neighborhood than the specified uses, that no extra fire hazard is created, and the proposed use as determined by the Board of Zoning Appeals is similar in character to one of the specific uses in this section.

17.08 **SUBMISSION REQUIREMENTS FOR PLANNED DEVELOPMENT PROPOSALS**

17.081 **PRELIMINARY PLAN STAGE**

(1) Application:

An application for Preliminary Planned Development shall be secured from, and the fully completed application shall be filed with the Zoning Inspector, together with the appropriate fee in accordance with the prevailing rate.

(2) Material To Be Submitted with Applications:

(a) Identification of all property owners within the proposed development, evidence of unified control of the entire area of the development, tentative agreement of all owners to proceed with development according to plan or to provide adequate sureties for completion.

(b) A map or maps indicating the relation of the proposed development to the surrounding area. As appropriate to the development proposed, such map or maps shall demonstrate access to major streets, and show the approximate location and sizes of existing public sewers, water lines and storm drainage systems.

(c) Topographic data map drawn to a scale of one hundred (100) feet or less to one (1) inch by a registered surveyor and/or engineer showing:

- (1) Boundary lines, bearing and distances;
- (2) Easements, location, width and purpose;
- (3) Wooded areas, streams, lakes, marshes and other physical conditions affecting the site;
- (4) Ground elevations on the tract;
- (5) If deemed necessary by the City Engineer, subsurface conditions on the tract, including the location and results of tests made to ascertain the conditions of subsurface soil, rock and groundwater.
- (6) Name, address and phone number of registered surveyor, registered engineer and/or urban professional planner assisting in the preparation of the Preliminary Development Plan.

(3) Preliminary Development Plan and Report:

A Preliminary Development Plan and report shall accompany the application with maps at a scale of one hundred (100) feet or less to the inch, including as appropriate to the kind of planned development proposed; the following information, presented in generalized form:

- (a) Proposed land uses and appropriate height, bulk and location of principal structures sufficient to permit an understanding of the style of the development. Proposals containing residential units shall specify the number of housing units by size and type proposed within the initial phase of the proposal or within the overall development if the development is not to be staged.
- (b) Proposed automotive and pedestrian circulation patterns including streets by type

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(major, collector or minor) and width, public or private bicycle paths and pedestrian ways and existing or plotted streets proposed to be vacated.

(c) Major off-street parking areas.

(d) Proposed parks, playgrounds, school sites and other major open spaces as well as the general form of organization proposed to own and maintain any common open space.

(e) General locations of utility installations and easements.

(f) A Schedule of Construction which shall indicate the estimated date for the start of construction and the duration of the construction period in months. The commencement date of construction may be set relative to the Plan's approval date.

If development is to be in stages, indication as to order and timing of development and demonstration that each stage, when completed, would complement any completed earlier, and would form a reasonably independent unit even though succeeding stages were delayed.

(g) Proposals for provision of public facilities, utilities or services where lacking or unlikely to be available when needed for the planned development, or for providing suitable private facilities, utilities or services. A report shall be provided containing proposals for improvement and continuing maintenance and management of any private streets.

(h) The substance of covenants, grants and easements or other restrictions proposed to be imposed upon the use of the land, building and structures including proposed easements or grants for public utilities.



17.082

FINAL PLAN STAGE

(1) Requirements for the Final Development Plan:

(a) A map or maps in the form required by the governing Subdivision Regulations for recording of final plats or subdivisions, with such modifications and additions as required to achieve the design flexibility of the planned development concept. Similar modifications of standards contained in the governing Subdivision Regulations or in other regulations or policies applying generally may be reflected in such maps and reports if the Planning Board shall find and shall certify, after consultations with other agencies of government as appropriate in the specific case, that the public purposes of such regulations or policies are as well or better served by specific proposals of the formal plan and reports.

(b) A general site and land use plan for the Planned Development as a whole, indicating sub-areas for phase development if any, and showing location and use of structures and portions of structures in relation to building sites reserved for future use and uses for which sites are reserved, automotive and pedestrian circulatory networks, principal parking areas, open space not in building sites and the use for which it is intended, and such other matters as are required to establish a clear pattern of the relationships to exist between structures, uses, circulation and land.

(2) Agreements, Contracts, Deed Restrictions and Sureties:

(a) All agreements, contracts and deed restrictions shall be submitted in a form acceptable to the City. Acceptance of the documents shall be in the form of a letter from the City Manager certifying that all such requirements have been met.

The applicant shall guarantee the installation of the public improvements specified in the Final Development Plan through one of the following methods:

(1) Filing a performance and labor and material payment bond in the amount of one hundred twenty-five percent (125%) of the estimated construction cost as determined by the City;

(2) Depositing or placing in escrow a certified check or cash or any other acceptable pledge, in the amount of one hundred twenty-five percent (125%) of the construction cost as approved by the City.

Acceptance of the form of guarantee selected shall be evidenced by a formal letter from the City Manager.

(b) The owners of the Planned Development or persons legally representing them shall execute a legally binding agreement providing for the maintenance of commonly owned open space, recreation areas and automotive and pedestrian circulatory networks. In addition, such owners or person(s) legally representing them shall authorize the Bellbrook Police Department and any other properly constituted law enforcement agency to exercise full powers of arrest law enforcement on the premises.

17.083

**DETAILED SITE PLANS**

Detailed plans for individual buildings or groups of buildings shall be submitted to the Planning Board for approval before each stage of construction is completed. Such plans shall be in accord with the Final Development Plan and report as approved by the Planning Board and shall be in sufficient detail to permit determinations as to compliance with the requirements of this ordinance with respect to the particular planned development district and uses involved. The plans shall include:

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- (1) Site plans for the building site or sites, indicating relationship to adjoining areas.
- (2) Floor plans of the buildings involved, indicating horizontal dimensions, uses of space, and floor areas.
- (3) Elevations of the buildings involved, indicating height and if required in determinations for the particular building or use, location and dimensions of all windows and other glassed area.
- (4) Any modifications on single lots in PD zoning districts shall be heard by the Board of Zoning Appeals.