

REVISED ZONING ORDINANCE OF 2012  
ORDINANCE NO. 2012-16

VILLAGE OF SUNBURY, OHIO

VILLAGE OF SUNBURY

DELAWARE COUNTY

OHIO

THE VILLAGE OF SUNBURY, OHIO REVISED ZONING ORDINANCE OF 2012

Tommy Hatfield, MAYOR

Kathy Belcher, FISCAL OFFICER

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**ORDINANCE NO. 2012-16**

**AN ORDINANCE PROVIDING FOR REVISIONS AND AMENDMENTS TO THE VILLAGE OF SUNBURY ZONING CODE, INCORPORATING SAID REVISIONS AND AMENDMENTS IN THE EXISTING VILLAGE OF SUNBURY ZONING CODE AND RE-TITLING SAID ZONING CODE THE REVISED ZONING ORDINANCE OF 2012**

**WHEREAS**, upon recommendation of the Planning and Zoning Commission, Sunbury Village Council has determined the need to make various revisions and amendments to the Village of Sunbury Zoning Code; and

**WHEREAS**, pursuant to Chapter S81.11 of the Village of Sunbury Zoning Code, the proper notices and public hearings have been held before the Sunbury Planning and Zoning Commission and Sunbury Village Council; and

**WHEREAS**, Council now wishes to approve said revisions and amendments and to incorporate all previous legislation affecting the Village of Sunbury Zoning Code (not including zoning designations for individual properties located within the Village) as well as the current revisions and amendments into Zoning Code Book to be re-titled The Revised Zoning Ordinance of 2012

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Village of Sunbury, Delaware County, Ohio;

**SECTION I:** The recommendation of the Sunbury Planning and Zoning Commission to approve revisions and amendments to the Village of Sunbury Zoning Code, a copy of said proposed amendments revisions being attached hereto as Exhibit A, is hereby approved.

**SECTION II:** The Village is to prepare copies of this revised zoning ordinance in book form which shall be re-titled The Revised Zoning Ordinance of 2012 and shall be made available for purchase by the public on a cost basis.

**SECTION III:** That all ordinances or parts of ordinances previously adopted by the Village of Sunbury, Ohio concerning matters of the Village of Sunbury, Ohio not specifically amended herein including but not limited to, ordinances zoning or re-zoning individual properties within the Village of Sunbury, are to remain in full force in effect.

**SECTION IV:** That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION V:** It is found and determined that all formal acts of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**WHEREFORE,** this Ordinance shall take effect and be in force from and the earliest time permitted by law.

<b>VOTE ON ORDINANCE NO. 2012-16</b>	<b>YEAS</b>	<b>NAYS</b>
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**PASSED:** \_\_\_\_\_, 2012

\_\_\_\_\_  
**TOMMY HATFIELD, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Kathy Belcher, Village Fiscal Officer**

**CERTIFICATION**

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, that the foregoing is a true and accurate copy of the Ordinance passed at the meeting held on \_\_\_\_\_, 2012, of the Village of Sunbury of the County of Delaware, State of Ohio.

\_\_\_\_\_  
**Kathy Belcher, Village Fiscal Officer**

**CHAPTER S81.01 TITLE, INTERPRETATION AND ENACTMENT**

Section S81.01.01 INTERPRETATION

This Ordinance shall be known and may be designated and cited as "The Village of Sunbury, Ohio, Zoning Ordinance of 1997."

Unless otherwise provided herein or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this Ordinance as those governing the interpretation of the Ohio Revised Code.

**Section S81.01.02 PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS.**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, convenience, comfort, prosperity and the general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive, or that imposing the higher standards shall govern.

**Section S81.01.03 CAPTIONS.**

Headings and captions used in this Ordinance, other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

**Section 81.01.04 RULE OF SEPARABILITY.**

Each chapter, section or other divisible part-section of this zoning Ordinance of 1981 is hereby declared to be separable and the invalidity of any chapter, section or divisible part section shall not be construed to effect the validity of any other chapter, section or part section hereof.

**Section S81.01.05 REFERENCE TO OTHER SECTIONS.**

Whenever in one section the reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter be changed or materially

altered by the amendment or revision.

**Section S81.01.06 REFERENCE TO OFFICES.**

Reference to a public office or officers shall be deemed to apply to any office or officer exercising the powers, duties or functions contemplated in the provision irrespective of any transfer of functions or change in the official title of the functionary.

**Section S81.01.07 ORDINANCE UNAFFECTED.**

All ordinances of a temporary or special nature and all ordinances pertaining to subjects not enumerated and embraced in this Zoning Ordinance of 1997 shall remain in full force and effect unless herein repealed expressly or by necessary implication.

**Section S81.01.08 REPEAL OF CONFLICTING ORDINANCE, EFFECTIVE DATE.**

All ordinances or parts of ordinances in conflict with this Zoning Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Ordinance shall become effective from and after the date of its approval and adoptions, as provided by law.

**Section S81.01.09 ERRORS AND OMISSIONS, ORDINANCE.**

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

**Section S81.01.10 ERRORS AND OMISSIONS, MAP.**

Amendments to the Official Zoning Map are deemed in effect as adopted by the Sunbury Council even though they may not appear

on the Official Zoning Map.

**S81.02 - OMITTED**



## **CHAPTER S81.03 DEFINITIONS**

Section S81.03.01 FOR THE PURPOSE OF THIS ORDINANCE, CERTAIN TERMS OR WORDS USED HEREIN SHALL BE INTERPRETED AS FOLLOWS:

1. The word "person" includes firm, association, limited liability company organization, partnership, trust, company or corporation as well as the individual.
2. The present tense includes the future, the singular includes the plural, and the plural number includes the singular.
3. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
4. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied".
5. The word "lot" includes the words "plot" or "parcel".
6. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.
7. A general term following a specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.
8. Either conjunction "and" or "or" shall include the other as if written "and/or".

### **Section S81.03.02 ACCESSORY BUILDING, USE OR STRUCTURE**

A building, use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, structure or building. Accessory buildings and structures include those attached to or separate from the principal structure or building, and shall be permitted in association with a principal use or structure. Such Accessory Building or Structure shall not be used for dwelling purposes.

**Section S81.03.03 AGRICULTURAL PURPOSES**

A purpose directly or immediately related to agriculture, and either usually or naturally and inseparably dependent upon agriculture.

**Section S81.03.031 AGRICULTURE**

"Agriculture" means the use of land under one ownership for farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

**Section S81.03.04 ALLEY**

A public thoroughfare which affords only a secondary means of access to abutting property and not intended for general circulation.

**Section S81.03.05 ALTERATIONS**

As applied to a building or structure, means a change or rearrangement in the structural parts in the existing facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

**Section S81.03.06 ALTERATIONS, STRUCTURAL**

Any change in the supporting members of a building, such as bearing walls, columns, beams, and girders.

**Section S81.03.07 APARTMENT HOUSE**

A building arranged, intended or designed to be occupied by three or more families living independently of each other.

**Section S81.03.09 BASEMENT**

A story having less than two thirds (2/3) of its height above the average level of the adjacent ground.

**Section S81.03.091 BED AND BREAKFAST FACILITY**

A home occupied by the owner, owner's family, or owner's agent, constructed in a residential district, containing at least 2400 square feet of living space, with no more than 5 guest rooms in which overnight lodging and meals for the lodgers only are offered, for compensation; a "Bed and Breakfast Facility" is not a hotel, motel, boarding house, lodging house or inn.

**Section S81.03.10 BUILDING**

Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, chattel, property or materials.

**Section S81.03.11 BUILDING, FRONT LINE OF.**

The line of any constructed part of the building or structure nearest the front line of the lot. This space includes sun parlors and covered porches whether enclosed or unenclosed, and roof overhangs.

**Section S81.03.12 BUILDING, HEIGHT OF.**

The vertical distance measured from the average elevation of the established finished grade at the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**Section S81.03.13 BUILDING, PRINCIPAL.**

A building in which is conducted the main or principal use of the lot on which said building is situated.

**Section S81.03.13 BUILDING SETBACK LINE**

A line established by the Zoning Ordinance and/or subdivision regulations, generally parallel with and measured from the street right-of-way, defining the limits of required front, side and rear yards in which no part of any building or structure may be located except as provided in such codes.

**Section S81.03.14 CONDITIONAL USE.**

A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval by the Sunbury Planning and Zoning Commission. Conditional uses permitted in each district are presented in the District Regulation Section.

**Section S81.03.15 CONDITIONAL USE PERMIT.**

A document issued by the Zoning Inspector based upon a conditional use approved by the Sunbury Planning and Zoning Commission to allow use other than a principally permitted use to be established within the district.

**Section S81.03.16 COURT.**

An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

**Section S81.03.17 COURT, INNER.**

A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.

**Section S81.03.18 COURT, OUTER.**

A court enclosed on not more than three sides by exterior walls or a building, or by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

**Section S81.03.20 DENSITY.**

A unit of measurement; the number of dwelling units per acre of land.

**Section S81.03.201 GROSS DENSITY.**

The number of dwelling units per acre of land to be developed.

**Section S81.03.202 NET DENSITY.**

The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

**Section S81.03.21 DWELLING.**

A building designed or used exclusively as the living quarters for one or more families.

**Section S81.03.22 DWELLING, MULTI-FAMILY.**

A building used or designed as the living quarters for more than two families residing independently of each other and doing their own cooking therein.

**Section S81.03.23 DWELLING UNIT.**

Living quarters designed for or occupied exclusively for one family.

**Section S81.03.24 DWELLING, ONE FAMILY.**

A detached building containing one dwelling unit only.

**Section S81.03.25 DWELLING, TWO FAMILY.**

A detached building containing two dwelling units.

**Section S81.03.27 FAMILY.**

One or more persons occupying the premises and living as a single housekeeping unit provided that unless all members are related by blood, adoption or marriage, no such family shall contain over five persons. As distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

**Section S81.03.28 FAMILY CARE HOME**

A residential care facility serving no more than eight physically or mentally handicapped individuals and having a valid license issued by the State of Ohio.

**Section S81.03.29 GASOLINE SERVICE STATION/AUTO SERVICE STATION.**

Building, structure, land or portion thereof arranged, intended or designed to be used for the retail sale of any motor vehicle or motor boat fuels, oils or accessories, including lubrication

of automobiles and replacement or installation of minor parts and accessories.

Uses permissible at a gasoline service station do not include: body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations. A gasoline service station is not a body shop.

**Section S81.03.30 FLOOD PLAIN AREA.**

Prairie Run Flood Plain which is subject to high water. For flood plain area regulation see S81.16.01(17).

**Section S81.03.31 FLOOR AREA OF A RESIDENTIAL BUILDING.**

The sum of the gross horizontal area of the several floors of a residential building, excluding basement floor, open or closed porches or verandas. All dimensions shall be measured from the interior faces of the walls.

**Section S81.03.33 GARAGE, PRIVATE.**

An accessory building to a dwelling intended to be used for the storage of non-commercial motor vehicles.

**Section S81.03.34 GARAGE, PUBLIC.**

Any garage not a private garage, and which is used for the parking or temporary storage of passenger automobiles for some commercial purpose.

**Section S81.03.35 GRADE.**

The average level of the finished surface of the ground between the adjacent lot lines, finish grade shall be a minimum of eighteen inches (18) and a maximum of twenty-four inches (24) above the curb or center line of the street. Where severe varied contours exists, the grade level will be determined by the Sunbury Planning and Zoning Commission.

**Section S81.03.36 HOME OCCUPATION.**

An occupation conducted in a dwelling unit meeting the

requirements of S81.14.03(c).

**Section S81.03.37 HOSPITAL.**

Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanitorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments with room, board and/or overnight facilities on the premises.

**Section S81.03.38 HOTEL.**

A building containing rooms intended or designed to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests for compensation on a temporary basis and where only a general kitchen and dining room may be provided within the building or in an accessory building. This does not include a multi-family dwelling wherein persons reside with the intent to dwell.

**Section S81.03.39 INSTITUTION.**

A building occupied by a non-profit corporation or a non-profit establishment for public use.

**Section S81.03.40 KENNEL OR CATTERY.**

Any lot or premises on which four or more domesticated animals more than four months old are housed, groomed, bred, boarded, trained or sold.

**Section S81.03.41 LINE, STREET.**

The dividing line between the street right-of-way and the lot.

**Section S81.03.42 LOCATION OR VICINITY MAP.**

A drawing located on the plat which sets forth, by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within Sunbury in order to better locate and orient the area in question.

**Section S81.03.43 LOT.**

A parcel of land which fronts and abuts upon an improved public street for a minimum required distance and is of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot may consist of:

- A. A single lot of record;
- B. A portion of a lot of record;
- C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

**Section S81.03.441 LOT, COVERAGE.**

The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.

**Section S81.03.442 LOT, FRONTAGE.**

The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

**Section S81.03.443 LOT, MINIMUM AREA OF.**

The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.

**Section S81.03.444 LOT, MEASUREMENTS.**

A lot shall be measured as follows:

- A. Depth of a lot shall be considered to be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front at the street right-of-way and the nearest points of the side lot lines in the rear.



- B. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the right-of-way line.

**Section S81.03.445 LOT OF RECORD.**

A Lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**Section S81.03.45 NON-CONFORMING USE.**

A building structure or use of land existing at the time of enactment of this Ordinance, and which does not conform to the regulations of the district or zone in which it is situated.

**Section S81.03.46 PARKING SPACE, OFF STREET.**

For the purpose of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for ten or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another. Further, for purposes of rough computations an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all ordinances and regulations of the municipality. Any off street parking area shall be graded for proper drainage.

**Section S81.03.47 PLAT**

A map, plan or layout of a proposed subdivision indicating the location and boundaries of individual properties, drawn on durable material as specified in the Subdivision Regulations and intended for recording, meeting all of the requirements as enumerated in the Subdivision Regulations.

**Section S81.03.48 ROOMING HOUSE.**

A building in which three or more rooms are rented and in which no table board or cooking facilities are permitted. Said rooms are limited to two adults per room.

**Section S81.03.49 SIGN.**

Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization.

**Section S81.03.50 STORY.**

That part of a building between the surface of the floor (whether or not counted for the purposes of computing floor area ratios) and the ceiling immediately above it.

**Section S81.03.51 STORY, HALF.**

A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor or such story.

**Section S81.03.52 STREET.**

A public way which affords principal means of access to abutting properties.

**Section S81.03.53 STRUCTURE.**

Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

**Section S81.03.54 USE.**

The specific purpose of which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term, "permitted use", or its equivalent shall not be deemed to include any non-conforming use.

**Section S81.03.55 VARIANCE.**

The variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

**Section S81.03.56 YARD.**

An unoccupied space open to the sky, on the same lot with a building or structure.

**Section S81.03.57 YARD, FRONT.**

An open unoccupied space on the same lot between the building front line and the front line of the lot and extending the full width of the lot.

**Section S81.03.58 YARD, REAR.**

An open unoccupied space on the same lot between the building rear line and the rear line of the lot and extending the full width of the lot.

**Section S81.03.59 YARD, SIDE.**

An open unoccupied space on the same lot between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

**Section S81.03.60 SITE PLAN**

A drawing and other documents, subject to review and approval by the Village, describing the planned improvements of a lot.

**Section S81.03.61 MINOR SITE IMPROVEMENTS**

Minor Site Improvements are any improvement on a developed lot such as minor parking lot expansion (25 parking spaces or less), sidewalk improvements, ADA improvements (curb ramps, ingress / egress ramps, railings, etc.), landscaping improvements, exterior lighting improvements, minor grading and drainage

improvements, utility line installation or replacement or other minor improvements as determined by the Village Engineer.

**Section S81.03.62 RESIDENTIAL SITE PLAN**

A Residential Site Plan is a site plan required for a single family dwelling, two-family dwelling, or a dwelling within a planned development.

**Section S81.03.63 MINOR LOT LINE ADJUSTMENT**

A Minor Lot Line Adjustment is to provide for a minor adjustment of boundary lines to accommodate the transfer of land between two adjacent property owners which does not result in the creation of any new building site, sub-standard lot or sub-standard yard or set back requirement.

**Section S81.03.64 PORTABLE STORAGE CONTAINER**

The term "portable storage container" shall be defined to be any container, storage unit, shed-like container or other portable structure that can be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements. This term shall not include roll-off or storage containers with storage capacity of less than 150 cubic feet used for such purposes as yard waste and debris removal.

**Section S81.03.64 ZONING CERTIFICATE.**

A document issued by the Zoning Inspector authorizing and approving the proposed use of lots, structures, uses of land and structures, and the characteristics of the proposed uses. Zoning Certificates are required before construction or alteration of a building, structure or lot.

## CHAPTER S81.05 ENFORCEMENT

### Section S81.05.01 ZONING CERTIFICATES REQUIRED.

#### A. Action by Planning and Zoning Commission

1. New building or structure Zoning certificate applications in any commercial or industrial district for a new building or structure shall come before Sunbury Planning and Zoning Commission for recommendation to Sunbury Council in conformance with the provisions of this Ordinance. Sunbury Planning and Zoning Commission may recommend the application be granted as requested or it may request a modification, or it may recommend that the application not be granted.
2. Additions, Alterations to Existing Buildings or Structures Zoning certificate applications in any commercial or industrial district for additions to or alterations of, existing buildings or structures shall come before Sunbury Planning and Zoning Commission for approval or disapproval in conformance with this Ordinance. No action by Sunbury Council is required to additions or alterations herein.
3. Site Plans associated with a new building or structure on undeveloped lots or site improvements which are not a Minor Site Improvement shall come before Sunbury Planning and Zoning Commission for recommendation to Sunbury Council in conformance with the provisions of this Ordinance. Sunbury Planning and Zoning Commission may recommend the application be granted as requested or it may request a modification, or it may recommend that the application not be granted.

If the applicant is seeking a zoning certificate for a phase development which appears on a site plan previously approved, by Sunbury Planning and Zoning Commission/Sunbury Council, then the Zoning Inspector shall have the discretion, if he should decide to exercise it, to approval or disapprove the application.

#### B. Action by Sunbury Council

Sunbury Council must vote on the recommendation of the Sunbury Planning and Zoning Commission on the proposed zoning

certificate application for new buildings or structures in any industrial or commercial districts and may either adopt or deny the recommendation of the Sunbury Planning and Zoning Commission. In the event the Sunbury Council adopts the recommendation of the Sunbury Planning and Zoning Commission, it must do so by not less than a majority vote of the full membership of the Sunbury Council. In the event the Sunbury Council modifies the recommendation of the Sunbury Planning and Zoning Commission, it must do so by not less than three-fourths (3/4) of the full membership of the Sunbury Council. No such ordinance shall be passed unless it has been full and distinctly read on three different days before Sunbury Council, unless three-fourths (3/4) of the membership of the Sunbury Council vote to dispense with the three reading rule. If a recommendation fails to receive the votes necessary for passage, the recommendation is rejected. If the recommendation fails to receive the votes necessary for passage or for modification or for denial, the matter may be remanded to Sunbury Planning and Zoning Commission and reconsidered without filing of application fees which might otherwise be necessary.

#### C. Residential Dwellings Excluded

Residential dwellings shall be excluded from the zoning certificate requirements. Residential dwellings shall otherwise, however, comply with all applicable provisions of this Zoning Ordinance and all applicable building code provisions.

#### D. Storage Shed Exclusion

Storage sheds which have no permanent foundation, and which have a total area of 100 square feet or less are excluded from the provisions of Section S81.05.01 of the Village of Sunbury, Ohio, Zoning Ordinance of 1981, Ordinance No. 81-699, requiring a zoning certificate prior to erection. (Ordinance No. 87-014)

#### E. Minor Site Improvements Excluded

Minor Site Improvements shall be excluded from the zoning certificate requirements. An application for a minor site plan shall be submitted for review and approval by the Zoning Officer and the Village Engineer. The application for Minor Site Improvements is on file at the office of the Zoning Inspector.

F. Minor Lot Line Adjustment Excluded

Minor Lot Line Adjustments shall be excluded from the zoning certificate requirements. An application for a Minor Lot Line Adjustment shall be submitted for review and approval by the Zoning Officer, the Village Engineer and the Village Solicitor. The application for a Minor Lot Line Adjustment is on file at the office of the Zoning Inspector.

**Section S81.05.02 CONTENTS OF APPLICATION FOR ZONING CERTIFICATE.**

Every applicant for a Zoning Certificate shall file a written application with the Zoning Inspector.

The application for zoning certificate shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within 6 months or substantially completed within one and one-half (1 1/2) years. The application for the Zoning Certificate is on file at the office of the Zoning Inspector and shall contain the following information.

1. Name, address, and phone number of applicant,
2. Name, address, and phone number of owner,
3. Legal description of property,
4. Existing use,
5. Proposed use,
6. Zoning district,
7. Fifteen copies of plans in quality required by the Zoning Inspector and/or Village Engineer showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings or structures on the lot, if any; and the location and dimensions of the proposed building(s), structure(s) or alteration; elevation drawings which to depict an accurate representation of the architecture and building materials to be used in construction. This plan and elevation drawings as submitted with amendments as required by the Printing and Zoning Commission are hereby incorporated by reference to any approved zoning certificate.
8. Building heights and square footage,
9. Number of off-street parking spaces or loading berths,
10. Number of dwelling units,
11. Such other matters as may be necessary to determine

conformance with, and provide for the enforcement of this ordinance.

**Section S81.05.03 APPROVAL OF ZONING CERTIFICATE**

Action on the Application shall be taken in conformance with this Ordinance.

Upon approval by Sunbury Council or Sunbury Planning and Zoning Commission, where applicable, all zoning certificates shall be conditional upon the commencement of work within one year. One copy of the plans shall be returned to the applicant by the Zoning Inspector, after he shall have marked such copy either as approved or disapproved and attested to the same by his signature on such copy. One copy of plans, similarly marked, shall be retained by the Zoning Inspector. The Zoning Inspector shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of the Ordinance.

**Section S81.05.04 EXPIRATION OF ZONING CERTIFICATE.**

If the work described in any zoning certificate has not begun within one year of the date of issuance thereof, said certificate shall expire; it shall be revoked by the Zoning Inspector; and written notice thereof shall be given to the persons attested. If the work described in any zoning certificate has not been substantially completed within one and one half (1 1/2) years of the date of issuance thereof, including completion of top coats of asphalted materials, said certificate shall expire and be revoked by the Zoning Inspector, and written notice thereof shall be given to the persons attested, together with notice that further work as described in the cancelled certificate shall not proceed unless and until a new zoning certificate has been obtained or extension granted. Upon expiration of a zoning certificate, prior to a new zoning certificate being issued or an extension granted, application shall be filed with the Planning and Zoning Commission and a reapplication/extension fee in the amount of \$75.00 will be paid to the zoning inspector provided no material changes to the prior submission are involved. If occupancy permit is issued from December 1<sup>st</sup> through April 1<sup>st</sup> of any building season, the applicant will have until the following June 1<sup>st</sup> to have any delinquent top coat paving completed.



**Section S81.06.01 CERTIFICATE OF OCCUPANCY (PRE-OCCUPANCY).**

**A. Commercial or Industrial**

It shall be unlawful to use or occupy or permit the use or occupancy of any commercial or industrial building, structure or premises, or part thereof, whether hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, or upon a change in ownership or occupant, until a certificate of occupancy shall have been issued therefore by the Zoning Inspector stating that the proposed use of the building or land conforms to the requirements of this Ordinance. Before any certificate of occupancy is issued, the applicant must first provide to the Zoning Inspector copies of all applicable inspection reports, including any inspections by state, county, and village personnel.

**B. Residential**

It shall be unlawful to use or occupy or permit the use for occupancy of any residential building, structure or premise, or part thereof, whether hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged until a certificate of occupancy shall have been issued therefore by the Zoning Inspector stating that the proposed use of the building or land conforms to the requirements of this ordinance.<sup>1</sup>

**Section S81.06.02 RECORD OF CERTIFICATES OF OCCUPANCY.**

The Zoning Inspector shall maintain a record of all certificates of occupancy and a copy shall be furnished upon request to any person upon payment of a specified fee.

**Section S81.06.03 TEMPORARY CERTIFICATE OF OCCUPANCY.**

A temporary certificate of occupancy may be issued by the Zoning Inspector for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion.

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<sup>1</sup>Before any certificate of occupancy is issued, the applicant must first provide to the Zoning Inspector copies of all applicable inspection reports, including any inspections by state, county and village personnel.

**Section S81.06.04 FAILURE TO OBTAIN A ZONING CERTIFICATE OR CERTIFICATE OF OCCUPANCY.**

Failure to obtain a zoning certificate or certificate of occupancy shall be a violation of this Ordinance and punishable under Section S81.06.08 of this Ordinance.

**Section S81.06.05 CONSTRUCTION AND OCCUPANCY TO BE AS PROVIDED IN APPLICATIONS, PLANS, AND CERTIFICATES.**

Zoning certificates or certificates of occupancy issued on the basis of plans and applications approved by the Zoning Inspector authorize only the occupancy, construction and arrangement, set forth in such approved plans and applications or amendments thereto, and no other occupancy, arrangement, or construction. Occupancy or construction at variance with that authorized shall be deemed a violation of this Ordinance and punishable as provided in Section S81.06.08 of this Ordinance.

**Section S81.06.06 FEE SCHEDULE.**

Council by ordinance or resolution shall establish a schedule of fees, charges and expenses and a collection procedure for Zoning Certificates, Certificates of Occupancy, appeals and other matters pertaining to this Zoning Ordinance. The schedule of fees shall be posted in the office of the Zoning Inspector and may be altered and amended only by ordinance of Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. All funds shall be made payable to the Village. All fees shall be paid to the General Fund.

**Section S81.06.07 COMPLAINTS REGARDING VIOLATIONS.**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Inspector. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

**Section S81.06.08 PENALTIES FOR VIOLATIONS.**

Violation of the provisions of this Ordinance or failure to

comply with any of its requirements (including violations of conditions and safeguards established in various sections of this Ordinance) shall constitute a first degree misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000.00 or imprisoned for not more than one hundred eighty (180) days, or both, and in addition shall pay all costs including legal fees and expenses involved in the case. Each day such violation continues after receipt of a violation notice, shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, subcontractor, agent, or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the municipality from taking such other action as is necessary to prevent or remedy any violations.

## **CHAPTER S81.07 NON-CONFORMING USES.**

Within the districts established by this Zoning Ordinance or amendments that may later be adopted, there exists lots, structures, uses of land and structures, and characteristics of use which were lawful before this Zoning Ordinance was passed or amended which would be prohibited, regulated or restricted under the terms of this Zoning Ordinance, or future amendments. It is the intent of this Zoning Ordinance to permit these non-conformities to continue until they are removed, to provide for their conversion into conforming uses as soon as it is reasonably possible, but not to encourage additional non-conformities.

### **Section S81.07.01 USES UNDER CONDITIONAL USE PROVISIONS NOT NONCONFORMING USES.**

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

### **Section S81.07.02 CONTINUANCE.**

The lawful use of any lot, structures, uses of land structures, and characteristics of use, as existing and lawful at the time of enactment of this Ordinance or amendments thereto, may be continued, although such use does not conform with the provisions of this Ordinance or amendments. If no structural alterations are made, any non-conforming use of a structure or structure in premises, lots or characteristics of use, may, as a conditional use, be changed to another non-conforming use, provided that the Sunbury Planning and Zoning Commission finds that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Commission may require appropriate conditions and safeguards in accord with other provisions of this Zoning Ordinance.

No non-conforming building or use may be enlarged, extended or otherwise expanded except upon the granting of a conditional use permit issued by the Sunbury Planning and Zoning Commission pursuant to Section S81:03:15 and this section. The Commission shall have the power to permit changes and extensions of nonconforming uses as follows:

1. A nonconforming use of a less objectionable nature may be substituted for an existing nonconforming use.
2. An existing, legal nonconforming use which occupied only a portion of an existing structure or premises may be extended throughout such structure or premises.
3. The alteration or reconstruction of a nonconforming use or building provided that such will make the nonconforming use substantially more in character with its surroundings.
4. The extension of a nonconforming use when such extension will substantially make the nonconforming use more in character with its surroundings.
5. Any extension, alteration or reconstruction shall not be greater than 50% of the size of the nonconforming use that existed at the time of passage of this Ordinance.

The Board may impose such requirements and conditions as they may deem necessary for the protection of adjacent properties and the public interest.

**Section S81.07.03 DISCONTINUANCE.**

In the event that a non-conforming use of any dwelling, building or structure and of any land or premises is voluntarily discontinued for six (6) months or more, then pursuant to Ohio Revised Code .713.15, any future use thereof shall be in conformity with the provisions of this Ordinance.

**Section S81.07.04 DAMAGE TO.**

A nonconforming building or use more than 50% damaged, destroyed or removed by whatever cause, including acts of God, but not including acts of malicious mischief or vandalism, shall not be restored or replaced, except in accordance with the regulations for the district in which it is located. Those structures with less than 50% destruction or removal may only be restored or rebuilt and continued in such nonconforming use if the restoration or rebuilding is commenced within six months from the time of damage.

**Section S81.07.05 - SINGLE NONCONFORMING LOTS OF RECORD.**

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

be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Ordinance, notwithstanding limitations imposed by other provisions of this Zoning Ordinance. Such nonconforming lots must be in separate ownership and not of continuous frontage with other land in the same ownership on the effective date of the applicable amendment of this Zoning Ordinance. Variance of any development standard other than minimum lot area and/or minimum lot width shall be obtained only through action of the Sunbury Planning and Zoning Commission in accordance with the provisions of this Ordinance. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which said ownership is located.

**CHAPTER S81.09 ADMINISTRATIVE BODIES AND THEIR RESPONSIBILITIES.**

**Section S81.09.01 OFFICE OF ZONING INSPECTOR CREATED.**

A Zoning Inspector appointed by the Mayor and approved by the Sunbury Council and subject to the direction and supervision of the Administrator shall administer and enforce this Ordinance. Salary or other compensation shall be established by the Sunbury Council. He may be provided with the assistance of such persons as the Sunbury Council may permit.

The Zoning Inspector, before entering upon the duties of his office, shall give bond signed by a bonding or surety company authorized to do business in this state, or, at his option, signed by two (2) or more freeholders having real estate in the value of double the amount of the bond, in the amount specified by Sunbury Council. Such surety company or real estate bond shall be approved by the Sunbury Council and the bond shall be conditioned upon the faithful performance of such Zoning Inspector's official duties. Such bond shall be deposited with the Municipal Clerk.

**Section S81.09.02 DUTIES OF THE ZONING INSPECTOR.**

For the purposes of this Ordinance the Zoning Inspector shall have the following duties:

1. Upon finding that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation,
2. Order discontinuance of illegal uses of land, buildings, or structures,
3. Order removal of illegal buildings or structures or illegal additions or structural alterations,
4. Order discontinuance of any illegal work being done; or
5. Take any other action authorized by this Ordinance to ensure compliance with or to prevent violation(s) of this Ordinance. This may include the issuance of and action on zoning certificates and certificates of occupancy and such

similar administrative duties as are permissible under the law.

6. Keep the Planning and Zoning Commission advised of all matters other than routine duties pertaining to the enforcement of the Ordinance, advise of all matters pertaining to conditional use permits, appeals or variances, and to transmit all applications and records pertaining to the Commission.

**Section S81.09.03 SUNBURY PLANNING AND ZONING COMMISSION CREATED.**

The Sunbury Planning and Zoning Commission is hereby created, which shall consist of the Mayor, (3) residents appointed by the Mayor and confirmed by the Sunbury Council, each for a term of (3) three years, and one member elected from Sunbury Council for the remainder of his term will serve as a voting member. Members of the Commission may be removed from office by the Sunbury Council, for cause upon written charges and after public hearing. Vacancies shall be filled by appointment of the Mayor for the unexpired term of the member. The Mayor shall serve as Chairman of the Commission and the Council's representative shall serve as vice-chairman.

**Section S81.09.04 QUORUM; VOTING**

1. four members present shall constitute a quorum of the Commission;
2. four affirmative votes shall be required for the passage of any resolution.

**Section S81.09.05 CLERK TO THE SUNBURY PLANNING AND ZONING COMMISSION CREATED.**

The position of Clerk to the Sunbury Planning and Zoning Commission is hereby created, who shall be appointed by the Commission upon the approval of the Sunbury Council. Salary, and or other compensation, shall be established by the Sunbury Council. The duties of the clerk shall be defined in the operating procedures adopted by the Sunbury Planning and Zoning Commission.

**Section S81.09.06 PROCEEDINGS OF SUNBURY PLANNING AND ZONING**



**COMMISSION.**

The Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Commission may determine. The chairman, or in his absence the vice chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be a public record and be immediately filed in the office of the Mayor.

**Section S81.09.07 DUTIES OF SUNBURY PLANNING AND ZONING COMMISSION.**

In exercising its duties, the Commission may, as long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Inspector from whom the appeal is taken. The concurring vote of four (4) members of the commission shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in the application of this ordinance. For the purpose of this Ordinance the Commission has the following specific responsibilities:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Inspector, and
2. To authorize such variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done. In permitting such variances, the Commission may establish conditions precedent to the granting thereof which it deems necessary

to accomplish the purposes of this Ordinance, and

3. To grant conditional uses as specified in the Official Schedule of District Regulations and under the conditions specified in Chapter S81:11.29, et. seq. and such additional safeguards as will uphold the intent of this Ordinance, and
4. Review all proposed amendments to this Ordinance and make recommendations to the Sunbury Council, and
5. Review all planned residential, industrial and commercial district proposals and make recommendations to the Sunbury Council, and
6. To review all zoning certificate applications and site plans and make recommendations to the Sunbury Council, when required.

**Section S81.09.08 ON MATTERS OF APPEAL, THE DUTIES OF ZONING INSPECTOR, SUNBURY PLANNING AND ZONING COMMISSION, LEGISLATIVE AUTHORITY AND COURTS.**

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and that such questions shall be presented to the Commission only on appeal from the decision of the Zoning Inspector, and that recourse from the decisions of the Commission shall be to the courts as provided by law. It is further the intent of this Ordinance that the duties of the Sunbury Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Ordinance. Under this Ordinance Sunbury Council shall have only the duties of considering and adopting or rejecting proposed amendments, rezoning, zoning certificate for new building in commercial or industrial district, or the repeal of this Ordinance as provided by law, and of establishing a schedule of fees and charges.

**CHAPTER S81.11 ADMINISTRATIVE PROCEDURES.**

**Section 81.11.01 PROCEDURE FOR AMENDMENT OR DISTRICT CHANGES.**

This Ordinance may be amended utilizing the procedures specified in Section S81.11.02 - 81.11.14.

**Section S81.11.02 GENERAL**

Whenever the public necessity, convenience, general welfare, or good zoning practices require, Sunbury Council may by ordinance after receipt of recommendation thereon from the Sunbury Planning and Zoning Commission, and subject to the procedures provided by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classifications of property.

**Section S81.11.03 INITIATION OF ZONING AMENDMENTS (REZONING).**

Amendments to this Ordinance may be initiated in one of the following ways:

1. By adoption of a motion by the Sunbury Planning and Zoning Commission.
2. By adoption of a resolution of Sunbury Council,
3. By filing with the Zoning Clerk of an application by at least one (1) owner, his/her agent or lessee of property within the area proposed to be changed or affected by said amendment. Applications will also be accepted, as a courtesy, on behalf of property owners who are seeking annexation into the Village. Said applications will only be accepted after the County Commissioners have voted to approve the annexation. Acceptance of applications after the approval of the County Commissioners but before acceptance by the Sunbury Council will permit tracking of the annexation request with the rezoning request. Applications will be accepted as a courtesy to the property owners, recognizing that annexation requests will ultimately include an application for rezoning.

**Section S81.11.04 CONTENTS OF APPLICATION.**

The application for amendment is on file at the office of the Zoning Inspector and shall contain at least the following information:

1. Name, address, and phone number of legal owners of the real property,
2. Name, address, and phone number of applicant,
3. Proposed amendment to the text or legal description,
4. Present use,
5. Present zoning district,
6. Proposed use,
7. Proposed zoning district,
8. A vicinity map at a scale approved by the Zoning Inspector showing property lines, streets, existing and proposed zoning and such other items as the Zoning Inspector may require.
9. A list of all property owners within, contiguous to, and directly across the street from the parcel(s) proposed to be rezoned and others within 200 feet of the parcel.
10. A statement on how the proposed amendment relates to the comprehensive plan.
11. A fee as established by Sunbury Council.

**Section S81.11.05 TRANSMITTAL TO SUNBURY PLANNING AND ZONING COMMISSION.**

Immediately after the adoption of a resolution by the Sunbury Council or the filing of an application by at least one (1) owner or lessee of property, said resolution or application shall be transmitted to the Commission.

**Section S81.11.06 PUBLIC HEARING BY THE SUNBURY PLANNING AND ZONING COMMISSION.**

The Sunbury Planning and Zoning Commission shall schedule a public hearing after the adoption of a motion, transmittal of a resolution from Sunbury Council, or the filing of an application for zoning amendment. Said hearing shall be not less than twenty (20) days and more than sixty (60) days from the date of the receipt of such motion, transmittal of such resolution, or the filing of such application.

**Section S81.11.07 NOTICE OF PUBLIC HEARING IN NEWSPAPER, AT MUNICIPAL BUILDING AND AFFECTED PROPERTY.**

Before holding the public hearing provided in Section S81.11.06, notice of such hearing shall be given by the Sunbury Planning and Zoning Commission by at least one (1) publication in one (1)

or more newspapers of general circulation in Sunbury at least fifteen (15) days before the date of said hearing. This notice shall set forth the time and place of the public hearing, the nature of the proposed amendment, and a statement that after the conclusion of such public hearing the matter will be referred to Sunbury Council for further determination. Notice shall also be given by placing a sign at the Municipal Building and on the affected property.

**Section S81.11.08 NOTICE TO PROPERTY OWNERS BY SUNBURY PLANNING AND ZONING COMMISSION**

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Sunbury Planning and Zoning Commission by first class mail, at least fifteen (15) days before the date of the hearing to all owners of property within, contiguous to, directly across the street, and within 200 feet of such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the Sunbury Council. The notice shall contain the same information as required of notices published in newspapers as specified in S81.11.07.

**Section S81.11.09 RECOMMENDATION BY THE SUNBURY PLANNING AND ZONING COMMISSION.**

Within sixty (60) days after the public hearing provided in Section S81.11.06, the Sunbury Planning and Zoning Commission shall recommend to Sunbury Council that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment not be granted. If the commission makes no report within sixty (60) days, Council shall proceed without such report.

**Section S81.11.10 PUBLIC HEARING BY SUNBURY COUNCIL.**

Upon receipt of the recommendation from the Sunbury Planning and Zoning Commission, or after expiration of sixty (60) days as set forth in S81.11.09, Sunbury Council shall schedule a public hearing.

**Section S81.11.11 NOTICE OF PUBLIC HEARING IN NEWSPAPER, AT**

**MUNICIPAL BUILDING AND AFFECTED PROPERTY.**

Notice of the public hearing shall be given by Sunbury Council in at least one (1) publication in one (1) or more newspapers of general circulation in Sunbury. Said notice shall be published at least thirty (30) days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment. Notice shall also be given by placing a sign at the Municipal Building and on the affected property.

**Sections S81.11.12 NOTICE TO PROPERTY OWNERS BY SUNBURY COUNCIL.**

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, at least twenty (20) days before the day of the public hearing to all owners within, contiguous to, directly across the street and within 200 feet of such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by Sunbury Council. The failure to deliver the notification, as provided in this section shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in Section S81.11.11.

**Section S81.11.13 ACTION BY SUNBURY COUNCIL.**

Within thirty (30) days after the public hearing, the Sunbury Council must vote on the recommendation of the Sunbury Planning and Zoning Commission and may either adopt or deny the recommendation of the Sunbury Planning and Zoning Commission, or adopt some modification thereof. In the event the Sunbury Council adopts the recommendation of the Sunbury Planning and Zoning Commission, it must do so by not less than a majority vote of the full membership of Sunbury Council. In the event the Sunbury Council modifies the recommendation of the Sunbury Planning and Zoning Commission, it must do so by not less than three-fourths (3/4) of the full membership of Sunbury Council. No such ordinance shall be passed unless it has been fully and distinctly read on three different days before Sunbury Council, unless three-fourths (3/4) of the membership of the Sunbury

Council vote to dispense with this rule. If a recommendation fails to receive the votes necessary for passage, the recommendation is rejected. If the recommendation fails to receive the votes necessary for passage or for modification or for denial, the matter may be remanded to Sunbury Planning and Zoning Commission and reconsidered without filing of application fees which might otherwise be necessary.

**Section S81.11.14 EFFECTIVE DATE AND REFERENDUM.**

Such amendment adopted by Sunbury Council shall become effective thirty (30) days after the passage of the date of such adoption unless within thirty (30) days after the passage of the ordinance there is presented to the Sunbury Clerk a petition, signed by a number of qualified voters residing in Sunbury equal to not less than ten (10) percent of the total vote cast at the last preceding general election at which a Governor was elected, requesting the Sunbury Council to submit the zoning ordinance to the electors of Sunbury for approval or rejection at the next general election.

No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the board of elections that the amendment has been approved by the voters it shall take immediate effect.

**Section S81.11.15 PROCEDURES AND REQUIREMENTS FOR APPEALS AND VARIANCES.**

Appeals and variances shall conform to the procedures and requirements of this Ordinance.

**Section S81.11.16 GENERAL.**

It is the purpose of Sections S81.11.17 - S81.11.26, to establish procedures and requirements for the hearing of appeals and variances. As is specified in Section S81.09.07, the Sunbury Planning and Zoning Commission has appellate jurisdiction relative to variances and to appeals.

**Section S81.11.17 APPEALS.**

Appeals to the Sunbury Planning and Zoning Commission concerning interpretation or administration of this Ordinance may be taken

by any person aggrieved or by any officer or bureau of the legislative authority of Sunbury affected by the decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning Inspector and with the Sunbury Planning and Zoning Commission a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Sunbury Planning and Zoning Commission all the papers constituting the record upon which the action appealed was taken.

**Section S81.11.18 STAY OF PROCEEDINGS.**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Sunbury Planning and Zoning Commission after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Sunbury Planning and Zoning Commission or by a court of record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

**Section S81.11.19 VARIANCES**

The Sunbury Planning and Zoning Commission may authorize upon appeal in specific cases and subject to appropriate conditions such variance from the terms of this Ordinance as will not be contrary to the public interest where it is a conforming use of land, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

**Section S81.11.20 APPLICATION AND STANDARDS FOR VARIANCES.**

A variance from the terms of this Ordinance shall not be granted by the Sunbury Planning and Zoning Commission unless and until a written application for a variance is submitted to the Zoning Inspector and the Sunbury Planning and Zoning Commission. The application is on file at the office of the



Zoning Inspector and shall contain the following information: 1. Name, address, and phone number of applicants and legal owners, if different from the applicant;

2. Legal description of property;
3. Description of nature of variance requested;
4. A narrative statement demonstrating that the requested variance conforms to the following standards:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
  - c. That special conditions and circumstances do not result from the actions of the applicant;
  - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
5. A list of the property owners and their addresses, contiguous to, directly across the street(s) and with 200 feet of the property for which the variance is proposed.

**Section S81.11.21 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.**

In granting any appeal or variance, the Sunbury Planning and Zoning Commission shall prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Ordinance. Under no circumstances shall the Sunbury Planning and Zoning Commission grant an appeal or variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

**Section S81.11.22 PUBLIC HEARING BY SUNBURY PLANNING AND ZONING COMMISSION.**

The Sunbury Planning and Zoning Commission shall hold a public hearing not less than twenty (20) days or more than sixty (60)

days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

**Section S81.11.23 NOTICE OF PUBLIC HEARING IN NEWSPAPER, AT MUNICIPAL BUILDING AND AFFECTED PROPERTY.**

Before holding the public hearing required in Section S81.11.22, notice of such hearing shall be given in one or more newspapers of general circulation of Sunbury, at least fifteen (15) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance.

**Section S81.11.24 NOTICE TO PROPERTY OWNERS.**

Before holding the public hearing required in Section S81.11.22, written notice of such hearing shall be mailed by the Clerk of the Sunbury Planning and Zoning Commission, by first class mail, at least fifteen (15) days before the day of the hearing to those property owners in interest including those identified in Section S81.11.20(5). The notice shall contain the same information as required of notices published in newspapers as specified in Section S81.11.23.

**Section S81.11.25 BURDEN OF PROOF**

It shall be the affirmative duty of the person bringing the appeal or pursuing the variance to present by a preponderance of the evidence, sufficient basis to demonstrate the propriety of the appeal or variance.

**Section S81.11.26 ACTION BY THE SUNBURY PLANNING AND ZONING COMMISSION.**

Within fifteen (15) days after the public hearing required in Section S81.11.22, the Sunbury Planning and Zoning Commission shall either approve, approve with supplementary conditions as specified in Section S81.11.21, or disapprove the request for appeal or variance. The Sunbury Planning and Zoning Commission shall further make a finding, upon approval, that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building or structure. If the request for appeal or variance is denied, the applicant may seek relief through the Court of Record.

**Section S81.11.27 PROCEDURE FOR REQUIREMENTS FOR APPROVAL OF CONDITIONAL USES.**

Conditional uses shall conform to the procedures and requirements of this Ordinance.

**Section S81.11.28 PURPOSE.**

Certain uses not otherwise allowed under this Ordinance may, if properly controlled, be compatible with the nature and spirit of the district regulations. This Ordinance calls those uses conditional uses and lists the conditional uses that may exist within a specific district. Upon proper review and approval by the Sunbury Planning and Zoning Commission, the conditional use may be granted the status of permitted use with respect to the property concerned.

**Section S81.11.29 CONTENTS OF APPLICATION FOR CONDITIONAL USE PERMIT.**

An application for conditional use permit shall be filed with the Clerk of the Sunbury Planning and Zoning Commission by at least one owner or lessee of the property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

1. Name, address, and phone number of applicant and of the legal owner, if different from the applicant;
2. Legal description of property;
3. Description of existing use;
4. Present zoning district;
5. Description of proposed conditional use;
6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic circulation, open spaces, landscaping, refuse, and service areas, utilities, signs, yards, and such other information as the Commission may require to determine if the proposed conditional use meets the intent and requirements of this Ordinance;
7. A narrative statement evaluating the economic effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district.;

8. A list of the property owners and their addresses, contiguous to, directly across the street(s), and within 200 feet of the property for which the conditional use is proposed.

**Section S81.11.30 GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES.**

The Commission shall review the particular facts and circumstances of each proposed use in the terms of the following standards and before approval shall find adequate evidence showing that such use at the proposed location:

1. Will be harmonious with, and in accordance with, the general objectives, or with any specific objective of Sunbury's Zoning Ordinance;
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area, neighborhood and zoning district;
3. Will not be hazardous or disturbing to existing or future neighboring permitted uses, or entail a use structure or condition of operation that constitutes a nuisance;
4. Will be served adequately by, and not create an undue burden on, essential public facilities and services such as highways, streets, police and fire protections, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
5. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads; and
8. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

**Section S81.11.31 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.**

In granting any conditional use, the Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Ordinance and punishable under Section S81.06.08 of this Ordinance.

**Section S81.11.32 PUBLIC HEARINGS BY SUNBURY PLANNING AND ZONING COMMISSION.**

The Commission shall hold a public hearing not less than twenty (20) days or more than sixty (60) days from the receipt of the application specified in Section S81.11.29.

**Section S81.11.33 NOTICE OF PUBLIC HEARING IN NEWSPAPER, AT MUNICIPAL BUILDING AND AFFECTED PROPERTY.**

Before holding the public hearing required in Section S81.11.32 notice of such hearing shall be given in one (1) or more newspapers of general circulation in Sunbury at least fifteen (15) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed conditional use. Notice shall also be given by placing a sign at the Municipal Building and on the affected property.

**Section S81.11.34 NOTICE TO PROPERTY OWNERS**

Before holding the public hearing required in Section S81.11.32 written notice of such hearing shall be mailed by the clerk at least fifteen (15) days before the day of the hearing to those property owners in interest including those identified in S81.11.29(8). The notice shall contain the same information as required of notices published in newspapers as specified in Section S81.11.33.

**Section S81.11.35 BURDEN OF PROOF**

It shall be the affirmative duty of the applicant to present by the preponderance of evidence, sufficient basis to demonstrate the propriety of a conditional permit. Mere application for the permit is not sufficient.

**Section S81.11.36 ACTION BY THE SUNBURY PLANNING AND ZONING COMMISSION**

Within thirty (30) days after the public hearing required in Section S81.11.32 the Commission shall either approve, approve with supplementary conditions as specified in Section S81.11.31, or disapprove the application as presented. If the application is approved or approved with modifications, the commission shall direct the Zoning Inspector to issue a conditional zoning permit listing the specific conditions specified by the Commission for approval. If the application is disapproved by the Commission, the applicant may seek relief through the Court of Record.

**Section S81.11.37 EXPIRATION OF A CONDITIONAL USE PERMIT**

A conditional use permit shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than six (6) months. No Conditional Use Permit shall inure to the benefit of the heirs, successors, assigns or purchasers of a Conditional Use Permit holder without first applying for a renewal of the Conditional Use Permit. Decision on the renewal shall be made by the Zoning Inspector. If the renewal is granted, it shall be issued instead of a Certificate of Use.

## **CHAPTER S81.12 PROVISIONS FOR OFFICIAL ZONING MAP.**

### **Section S81.12.01 OFFICIAL ZONING MAP**

The districts established in Chapter 81.13 of this ordinance are shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted as part of this Ordinance.

### **Section S81.12.02 IDENTIFICATION OF THE OFFICIAL ZONING MAP**

The official Zoning Map shall be identified by the signature of the Mayor, attested by Sunbury Clerk, and bearing the seal of Sunbury.

### **Section S81.12.03 INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the official Zoning Map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway lines shall be construed to be such boundaries;
2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries;
3. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the official Zoning Map;
4. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line; and
5. Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of Sunbury unless otherwise indicated.

### **Section S81.12.04 AMENDMENTS.**

If, in accordance with the provisions of this Ordinance changes are made in the district boundaries or other matters portrayed on the Zoning Map, such changes shall be entered on the Zoning

Map promptly after the amendment has been approved by Council and the Mayor, with an entry on the Zoning Map indicating the ordinance number and date of adoption.



## CHAPTER S81.13 ESTABLISHMENT AND PURPOSES OF DISTRICTS

### Section S81.13.01 INTENT

The following zoning districts are hereby established for the Village of Sunbury, Ohio. For the interpretation of this ordinance, the zoning districts have been formulated to realize the general purposes as set forth in the Preamble of this ordinance.

All lands and all lots in subdivisions which are located within the limits of the Sunbury Zoning Ordinance and which were duly recorded upon the official zoning map of Sunbury, Ohio, at the effective date of this amendment to the Zoning Ordinance shall be considered legal residential lots and nothing in this Ordinance shall be construed to prohibit the use thereof for residential purpose.

In addition, the purpose of each zoning district shall be as follows:

#### 1. Residential Districts

a. A-1, R-1, R-2, and R-3 Single Family Dwellings. These districts are established to accommodate single-family residential dwellings at a density that is similar to that which existed in the area so defined upon this code's initial creation. The objective of these districts is to discourage large concentrations of intensive development where it is desirable to maintain the character of the area.

#### b. R-4 Multiple Family Dwellings.

This district is established to accommodate multi-family dwellings and apartment houses at a density compatible to that which existed in the areas so defined upon this code's initial creation. The object of this district is to allow continuance, redevelopment or limited expansion of existing apartments in areas appropriate for such development and to allow for a choice of dwelling structure types and densities.

#### c. R-5 Two Family Dwellings.

This district is established to accommodate two-family

residential dwellings at a density that is similar to that which existed in the area so defined upon this codes initial creation. The object of this district is to discourage large concentrations of intensive development where it is desirable to maintain the character of the area.

d. PRD Planned Residential District.

Sunbury recognizing that with increased urbanization and population growth comes increased demands for well organized residential areas which take into account unique natural factors, contemporary land use concepts, and a balanced residential environment, hereby provides for the Planned Residence District intending hereby to promote the variety and flexibility of land development for residential purposes that are necessary to meet these demands while still preserving and enhancing the health, safety, and general welfare of the inhabitants of the municipality.

2. Commercial Districts

a. C-1 Neighborhood Office District.

The Neighborhood Office District is intended to encourage grouping of small individual establishments to promote convenience in serving the needs of people in residential areas. These groups of establishments generally occupy land area in close proximity to the residential population served. In that office establishments allowed in the Neighborhood Office District will be closely associated with residential, religious, recreational, and educational land uses at the neighborhood level, more restrictive requirements for light, air, and open space are necessitated than in other Commercial Zoning Districts.

b. C-2 Commercial District.

The Commercial District is intended to encourage the concentration of a broad range of individual commercial establishments which together may constitute an area of commercial activity. A Commercial District should be centrally located and accessible by the population served, and will normally be developed at the intersection of major thoroughfares.

c. C-3 Central Business District.

The Central Business District is intended to maintain and promote the historic character of the downtown business core. Permitted uses should reflect the historical nature and atmosphere which is the central business district.

d. PCD Planned Commercial District.

Sunbury, recognizing that with increased urbanization and population growth comes increased demands for well organized commercial areas to provide employment, goods and services to area residents as well as to provide a balanced economy within the municipality, hereby provides for the Planned Commercial District, intending to promote the variety and flexibility of land development for commercial purposes that are necessary to meet these demands while still preserving and enhancing the health, safety, and general welfare of the inhabitants of the municipality.

3. Industrial Districts

a. I Industrial District

The Industrial District is proposed to accommodate industrial development and allow land for future industrial expansion and to provide land for new industrial sites. The I designation is intended for lands which are located with frontage along major thoroughfares and/or where convenient access exists to major highways and/or rail systems.

b. Planned Industrial District

In the creation of the Planned Industrial District, it is the intention and desire of the municipality to provide reasonable conditions under which well planned industrial areas can develop for the greatest benefit of the entire municipality, while still preserving and enhancing the health, safety, and general welfare of all Sunbury.

## **CHAPTER S81.14 DISTRICT REGULATIONS.**

### **Section S81.14.01 COMPLIANCE WITH REGULATIONS**

The regulations for each District set forth by this Ordinance shall be minimum regulations, and shall apply uniformly to each class or kind or structure or land, except as hereinafter provided:

1. No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall be erected or altered to:
  - a. provide for greater height or bulk;
  - b. accommodate or house a greater number of families;
  - c. occupy a greater percentage of lot area; and
  - d. have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner be contrary to the provisions of this ordinance;
3. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements set forth herein;
4. All territory which may be annexed to the Village of Sunbury shall be administered according to the applicable township or county zoning district regulations unless otherwise classified. Annexed territory without township or county zoning shall be considered to be in the A-1 District unless otherwise classified.

### **Section S81.14.02 PROHIBITED USES**

1. No use not specifically authorized by the express terms of this chapter of the zoning ordinance shall be permitted.
2. For the purposes of this ordinance, the operation of a feed-lot for the feeding for sale of farm animals shall be termed commercial if the number of such animals is greater than five (5) head per five (5) acres of land operated by the proprietor in Sunbury, Ohio. The feeding for sale of more than fifty (50) chickens or ten (10) turkeys in a poultry operation at any one time shall be termed commercial. Neither of these commercial operations shall be permitted in the Residential Districts.
3. Outdoor storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven (7) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
4. No trailer of any type, no boats, no motor homes, and no equipment of any type shall be parked in front of the front building line on any parcel within this district. If a dwelling is located on said lot, the building line shall be considered to be the front wall of the dwelling even if said dwelling is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.
5. Motor homes, mobile homes, or campers of any type shall not be occupied by any person for more than fourteen (14) consecutive days within a 12-month period and shall not be used for commercial or business purposes
6. Portable Storage Container Regulations
  - a. Refer to Section S81.03.64 for the definition of a portable storage container.
  - b. Permit Requirements.
    - 1) Permit Required: The placement of a portable storage container in any zoning district is allowed only upon issuance of a permit by the Zoning Inspector. Applications for a permit are available at the Village of Sunbury Zoning Department.

2) Exceptions:

a) Where a portable storage container will be located on a zoning lot for less than seventy-two hours, no permit is required. However, the container company will be responsible for displaying documentation on the portable storage container, in a conspicuous place, indicating the delivery and removal dates and times.

3) Timing: A portable storage container may not be placed on the premises any time prior to 24 hours preceding the anticipated use of the container.

4) Duration: Portable storage containers are allowed to be placed on a lot for a period not to exceed ninety (90) consecutive days in any six (6) month period.

5) Permit Display: Permits shall be displayed in plain view from the nearest street.

✓ 6) Permit Cost: Permits cost twenty-five dollars (\$25.00) per container.

c. General Requirements for all Zoning Districts.

1) No more than one (1) portable storage container shall be permitted on any lot.

2) No portable storage container shall have dimensions greater than sixteen (16) feet in length, eight (8) feet in width, or eight and one-half (8 ½) feet in height.

3) With the exception of the name, telephone number and address of the container company and the permit, no signs or advertising may be displayed on any portable storage container.

4) No portable storage container shall be placed or located closer than five (5) feet from any side or rear lot line.

- 5) Any portable storage container shall be located to the rear of the front building line of the principal building facing a public street.
- 6) Where there is no principal structure on a lot, including construction sites, the portable storage container shall comply with the front yard setback for that zoning district.
- 7) Wherever possible, a portable storage container shall be placed on a driveway or other impervious surface and not upon a lawn or yard.
- 8) If site conditions prevent locating the portable storage container in conformity with sections (d)-(f), the applicant may request permission for the portable storage container to be placed in such other location as the Zoning Officer permits, provided that it is no closer than ten (10) feet from the paved portion of any street and not obstructing any sidewalk.
- 9) Where a portable storage container is lawfully located in a driveway or other area pursuant to sections (g) or (h), the applicant will attempt to locate it in a manner that allows for adequate off street parking.
- 10) Portable storage containers may not be left open to view and are to remain locked when not in use.
- 11) Portable storage containers shall be in a condition free from rust, peeling paint, and other forms of deterioration.
- 12) Where applications are construction-related, applicants are encouraged to move portable storage containers off-site.
- 13) No portable storage container stored anywhere other than a POD facility shall contain any flammable, combustible, toxic or hazardous materials.
- 14) Upon reasonable notice, the permit holder shall permit the inspection of the interior of any portable

storage container by any municipal official for compliance with this ordinance.

- 15) In the event of fire, hurricane or other natural disaster causing substantial damage to a primary structure, a property owner may apply to the Village of Sunbury for a reasonable extension of the time that the portable storage container may be located on a lot.

d. Enforcement.

- 1) These provisions shall be enforced by the Village of Sunbury Zoning Inspector.

e. Violations and Penalties.

- 1) Any person, firm or corporation that shall violate any provisions of this section shall be subject to the penalties as provided in §81.06.08. Each day that such violation exists shall constitute a separate offense.

**Section §81.14.03 ADDITIONAL DISTRICT RESTRICTIONS**

Where applicable, the following shall apply:

- A) Agricultural purposes, subject to the following restrictions:
  - 1) No animals, except household pets, shall be kept on any parcel of less than 5 acres unless the building housing said animals is at least 50 ft. from any lot line. This definition shall apply only to those parcels where the total land holdings of the using parts is 5 acres or less and shall not be construed to apply to individual pens, pastures or fields of less than five acres if part of a larger tract devoted to agricultural uses.
  - 2) Where roadside sales of agricultural products may be permitted in an applicable district, such products shall be produced on lands in this district or adjacent townships farmed by the proprietor of said sales stand and further that said stand is in



operation for not more than one hundred fifty (150) days in any year and adequate area exists adjacent thereto for parking so as not to interfere with traffic on adjacent thoroughfares.

- 3) Facilities for the storage, sorting, preliminary processing or sale of agricultural products shall be permitted if such products are used in the production of other farm products and if said storage, processing, sorting or sales is carried on incident to other farming operations by the owner/proprietor.
- B) Temporary structures such as mobile homes and temporary buildings of non-residential character may be used incident to construction work on the premises or on adjacent public projects. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for twelve (12) months and be renewed not more than once. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The fees for such permit and renewals thereof shall be established by the Sunbury Council. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.
- C) Home occupations conducted by the resident of a permitted dwelling shall be subject to the following restrictions:
- 1) The home occupation shall be carried on solely within the confines of the residential structures and architecturally compatible accessory buildings which are customarily associated with the residential use and character of the neighborhood.
  - 2) Only one sign, not illuminated, not larger than three (3) square feet and three (3) feet in height above grade of the surrounding yard, may be erected advertising the home occupation. The sign may be located at eye level if mounted flat against a building.
  - 3) The home occupation shall occupy not more than twenty percent (20%) of the total floor area of the dwelling unit or fifty percent (50%) of the floor space in any

garage or accessory building.

- 4) No non-resident employee shall work on said premises.
- 5) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard. Off-street parking may be permitted in a side or rear yard, but shall not be located any closer to the street than the required setback line. The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given for a particular home occupation, the parking requirement for the most similar commercial use shall be used in order to calculate the required minimum number of spaces).
- 6) No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference or other nuisance detectable to normal senses off the lot. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
- 7) Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the Delaware County Department of Health and do not create a burden on adjoining property.
- 8) No activity shall be conducted or permitted which creates a nuisance to neighboring properties.
- 9) No home occupation shall be permitted to operate until a certificate of compliance is issued for such

establishment by the Zoning Inspector after approval by the Sunbury Planning and Zoning Commission.

- D) Private outdoor recreation areas shall be subject to the following restrictions.
- 1) Minimum site size: Ten (10) acres.
    - a) Minimum Yard Requirements:
      - i) Front Yard: Fifty (50) feet, except one hundred (100) feet when fronting on a state highway.
      - ii) Side Yard: Forty (40) feet.
      - iii) Rear Yard: Fifty (50) feet.
    - 2) The site shall have adequate access onto a hard surfaced state highway or municipal street that is regularly maintained and adequate to handle the additional traffic generated by the use.
    - 3) A Development Plan shall be submitted with the application.
    - 4) A Landscape Plan, including quantities, sizes and varieties of landscaping, shall be submitted with the application.
    - 5) Parking areas shall be a minimum distance of fifty (50) feet from residential uses.
    - 6) An outdoor artificial lighting plan shall be submitted with the application.
- E) Public or Private Schools and Colleges shall be subject to the following restrictions:
- 1) Minimum site size: Fifteen (15) acres.
  - 2) Instructional areas, whether improved with buildings or not, shall provide adequate parking areas for faculty, staff and students. Such parking may not exist within the right of way of any road or highway.
  - 3) Off-street parking areas shall be suitably screened from view from adjacent existing residential

developments.

- 4) A heavily vegetated buffer strip, not less than fifty (50) feet in width, shall be planted along the lot line where the Institution of Higher Learning is located adjacent to any Residential District.

F) Churches and similar Places of Worship shall be subject to the following restrictions:

- 1) There shall be a minimum lot size of five (5) acres.
- 2) All structures, including accessory buildings, shall be set back a minimum distance of at least fifty (50) feet from the front lot line.
- 3) Access to a major thoroughfare shall be provided by at least two (2) entrance/exits.
- 4) All parking areas shall be screened from view from any adjacent existing or platted residential areas.

G) Cemeteries shall be subject to the following restrictions:

- 1) Minimum site size: Forty (40) acres.
- 2) Any mausoleum or crematory operated incident thereto shall be located at least three hundred (300) feet from any property boundary.
- 3) No interment shall be permitted in said cemetery nearer than fifty (50) feet to any property line or to the right of way line of any adjoining road or street.

H) Water Impoundments shall be subject to the following restrictions:

- 1) Water Impoundments shall include all ponds and lakes.
- 2) No impoundment shall be located closer than twenty-five (25) feet to the right of way line or fifty-five (55) feet of the center line of any adjacent public right of way.
- 3) All installed swimming pools, or the entire property

upon which it is located, shall be walled or fenced to prevent uncontrolled access by individuals from the street or from adjacent properties. Said fences shall be solid wood, chain link, or masonry and not less than five (5) feet in height, and shall be maintained in good condition with a self locking gate.

I) Resource and Mineral Extraction Operations shall be subject to the following restrictions:

- 1) The applicant must demonstrate that such operations will not be detrimental to the vicinity or surrounding properties.
- 2) All equipment used in these operations shall be constructed, maintained and operated in such a manner as to eliminate so far as practical, noise, vibration, or dust which would injure or annoy persons living in the vicinity.
- 3) No mining, quarrying, or gravel or sand extraction shall be permitted nearer than fifty (50) feet to the boundary of the property being utilized for such use.
- 4) In order to insure adequate lateral support, all sand and gravel excavations shall be located at least one hundred (100) feet, or backfilled to at least one hundred fifty (150) feet, and all quarrying or blasting shall be located at least (50) feet from the right of way line of any existing or platted street, road, highway or railway, except that such excavation or quarrying may be permitted within these limits to the point of reducing the ground elevation to the grade of the existing or platted street, road, or highway.
- 5) All excavations of gravel or sand shall either be made to a water-producing depth, plus five (5) feet or graded and/or backfield with non-noxious and non-flammable solids to assure:

That the excavated area will not collect and retain stagnant water, and

That the graded or backfield surface will create a

gently rolling topography to minimize erosion by wind and rain and substantially conform with the contours of the surrounding area.

- 6) The banks of all excavations not backfilled shall be sloped to the water line at a grade of not less than two (2) feet horizontal to one (1) foot vertical and such banks shall be sodded or surfaced with at least six (6) inches of suitable soil and seeded with grass. Spoil banks shall be graded to a level suiting the existing terrain and planted with trees, shrubs, legumes, or grasses where revegetation is possible. Where flood water exists, spoil banks shall be high enough to prevent overflow of water in the gravel pits and shall be sloped, graded, and seeded as prescribed herein.
- 7) Whenever the floor of a quarry is more than five (5) feet below the average grade of the highway, road, street, or land adjacent thereto, the property containing such quarry shall be completely enclosed by a barrier consisting of not less than a six (6) foot mound of earth planted with suitable dense planting or other suitable material sufficient in either case to prevent persons from trespassing thereon or passing through. Such mound shall be located at least twenty-five (25) feet from any street, road, highway, or boundary of the quarry property.
- 8) All quarrying, blasting, drilling or mining shall be carried out in a manner and on such scale as to minimize dust, noise, and vibrations and to prevent adversely affecting the surrounding properties.
- 9) When any quarrying has been completed, such excavated areas shall either be left as a permanent spring-fed lake if such lake has an average depth of twenty (20) feet or more, or the bottom floor thereof shall be leveled to prevent the collection and stagnation of water and to provide drainage without excessive soil erosion, and said floor shall be covered with soil of adequate thickness for the growing of turf or other ground cover. The edge of such excavation shall be further protected by construction of a barrier consisting of not less than a six (6) foot mound of

earth planted with a double row of multiflora rose bushes or other equally effective planting.

- 10) The Sunbury Planning and Zoning Commission may require a performance bond in an appropriate amount to ensure that adequate restoration measures be undertaken and completed by the applicant.
  - 11) All conditional use applications for resource and mineral extraction operations shall be reviewed by the Sunbury engineers.
- J) Family Care Home shall be subject to the following restrictions:
- 1) Every room occupied for sleeping purposes within the home shall contain a minimum of eighty (80) square feet of habitable room area for one occupant, and when occupied by more than one individual shall contain at least sixty (60) square feet of habitable room area for each occupant. No such facility shall use living rooms, dining rooms, entry ways, closets, corridors, outside porches, or cellars as sleeping rooms.
  - 2) The Family Care Home shall provide not less than twenty-five (25) square feet per person of suitable indoor recreation area and not less than seventy-five (75) square feet of outdoor recreation open space per person, exclusive of required front and side yards, and parking areas, consolidated in a useful configuration and location provided on the site.
  - 3) No exterior alterations of the structure shall be made which depart from the residential character of building. All new structures shall be compatible in residential design with the surrounding neighborhood.
  - 4) All exterior lighting fixtures will be shaded wherever necessary to avoid casting direct light upon any adjoining property located in a Residential District.
  - 5) No Family Care Home should be located within one-quarter (1/4) mile radius of another such facility in a given neighborhood.

6) Criteria for Evaluation:

- a) Is the facility licensed by and/or has legal accountability to an established social service agency of local government and that sufficient controls can be exercised to ensure continued compliance to the provisions of this Section?
  - b) Is the facility needed based upon the evidence submitted by the applicant?
  - c) Will the proposed facility be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or officially planned uses of the general vicinity and that such use will not change the essential character of the neighborhood?
  - d) Will the proposed facility not be hazardous or disturbing to existing or officially planned future neighborhood uses from the standpoint of noise, lights, congestion, or traffic generation which would be incompatible with the neighborhood environment?
  - e) Will the proposed facility be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services?
  - f) Will the proposed facility have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on public thoroughfares?
- 7) In the event that the Family Care Home should come under new ownership, the facility's existing Zoning Certificate shall be rendered null and void at the time of the change of ownership. The new owner shall apply for and obtain a new Zoning Certificate for the



facility, and may do so prior to the change in ownership in order to ensure continuity of the facility's operation.

8) Required submittal:

- a) Information explaining the need for the facility, the clientele to be served and the financial resources that will be used to operate the facility.
- b) Identification of similar facilities located in the area, including the names of individuals who may be contacted concerning the operation of such facilities.
- c) Identification of community facilities and social services that will be used by the clientele of the Family Care Home, including an indication from the Administrator of such facilities and services that the clientele of the Family Care Home can be accommodated.
- d) A license or evidence of ability to obtain a license from the appropriate governmental agency. Prior to the issuance of a Zoning Certificate, the applicant shall provide evidence that a valid license has been issued or is obtainable for the proposed conditional use of the subject property. When a license is not required of the applicant by a governmental agency, a written affidavit shall be presented as a part of the application by the governmental agency to which that applicant has accountability stating that a license is not required. The affidavit shall further state and describe the procedures that have been established in lieu of licensing to ensure that the provisions of this Section are carried out and the types of controls that the governmental agency can exercise in this regard.
- e) A copy of the operational and occupancy standards that will be used in establishing the facility.
- f) A detailed plan of services and programs to be

offered the clientele of the facility, including the nature of care to be provided and the types of services to be offered, and the individuals and/or agencies who will be responsible for administering such care and services.

- 9) Unless modified by this Section, the facility shall comply with all other applicable codes and ordinances prior to the issuance of a Zoning Certificate.
- K) Bed and Breakfast Facilities shall be subject to the following.
- 1) The premises shall not be subject to minimum lot size.
  - 2) The premises shall not be subject to minimum yard requirements.
  - 3) The premises shall have adequate vehicular access onto a regularly maintained throughway to handle any traffic generated by the Bed and Breakfast Facility.
  - 4) A parking area for motor vehicles shall be furnished on the premises for vehicles of paying guests. All vehicles parked on the premises are to be less than twenty (20) feet in length. The parking area and ingress and egress driveway servicing the parking area shall be constructed of concrete, blacktop or firmly packed crushed stone, and kept free from holes, bumps, and cracks at all times. (The parking area shall be not closer than ten (10) feet to adjacent side-yard property lines).
  - 5) No activity on the premises shall create or expel noise, odor, or electrical interference beyond limits of the premises.
  - 6) No waste materials of any sort shall be created on the premises at a greater level than normal for residential use.
  - 7) The premises shall have a smoke alarm and a fire extinguisher in each bedroom, the hallway of each floor, in the basement and in the attic. The smoke alarms and fire extinguishers will be inspected and

tagged annually by the local fire department. The owner will be responsible for the annual inspections.

- 8) No structural change unless otherwise approved by Sunbury Planning and Zoning Commission shall be made to any building or buildings including garages and out-buildings (except for painting, maintenance, and re-roofing), providing that any change, painting, maintenance or re-roofing of the above does not conflict with the esthetic character of the surrounding neighborhood.
  - 9) There may be a sign (no larger than three (3) square feet), which may not extend beyond the right of way line or over the public walkway.
  - 10) All development permits, lighting permits, and application for Conditional Use and Sign Permit must be paid for before the issuance of any Conditional Use permit.
  - 11) Conditional Use Permit is renewable subject to approval of Sunbury Planning and Zoning Commission and the permit cannot be transferred to any other party or future property owner.
  - 12) A limitation of 300 square feet of living space (excluding the garage, attic, and basement) is required per paying guest.
- L) Kindergarten or Child Care Facilities may be permitted, where applicable, provided the building occupied by the use is architecturally compatible with the neighborhood and provisions are made for fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc., or adjacent yards.
- M) Hospitals shall be subject to the following restrictions:
- 1) Located on a major thoroughfare on a minimum of five (5) acres.
  - 2) Maximum Lot Coverage: Twenty-five percent (25%).

- 3) Required set back from right of way line: 150 feet.
- 4) Required Side Yard: One hundred fifty (150) feet.
- 5) Required Rear Yard: One hundred fifty (150) feet.
- 6) Setback Required for Off Street Parking: Fifty (50) feet.
- 7) A six (6) foot solid wall or fence or compact hedge shall be required when located closer than one hundred fifty (150) feet from an existing or platted residential development.

**Section 81.14.04 OFFICIAL SCHEDULE OF DISTRICT REGULATIONS**

District regulations shall be as set forth in the Official Schedule of District Regulations hereby adopted and declared to be a part of this Ordinance.

**Section S81.14.05 IDENTIFICATION OF THE OFFICIAL SCHEDULE OF DISTRICT REGULATIONS**

The Official Schedule of District Regulations shall be identified by the signature of the Mayor.