

CHAPTER 152: PLANNING AND ZONING

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PLANNING COMMISSION

§ 152.001 ESTABLISHMENT.

There is established a Village Planning Commission in accordance with the provisions of R.C. § 713.01.

§ 152.002 COMPOSITION; COMPENSATION; APPOINTMENT; TERM.

The Village Planning Commission shall consist of five members: the Mayor, one member of the legislative authority to be elected thereby for the remainder of his term as such member of the legislative authority, and three citizens of the village or as appointed herein, such members shall serve without compensation. They shall be appointed by the Mayor for a term of six years, except that the term of one of the members of the first Commission shall be for four years and one for two years.

(R.C. § 713.01)

§ 152.003 POWERS AND DUTIES.

The powers and duties of the Village Planning Commission shall be as provided in R.C. §§713.01 through 713.10, but such Commission shall incur no obligations and make no expenditures without specific authorization and prior appropriation of funds by Council.

Cross -reference:

Duties as to integrated planned development projects, see §§ 152.270 - 152.277

Initiation and hearing on changes to zoning code, see §§ 152.085 and 152.068

Recommendation of zoning district for annexed territory, see § 152.076

§ 152.004 DEFINITIONS.

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

ACCESSORY USE or ACCESSORY STRUCTURE. A use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use.

AGRICULTURE. The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing produce. However, the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

ALLEY or LANE. A public or private way not more than 20 feet wide affording only secondary means of access to abutting property.

APARTMENT. A suite of rooms or a room in a multi-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single house-keeping unit.

APARTMENT, EFFICIENCY. A dwelling unit in a multi-family building consisting of not more than one habitable room together with a kitchen or kitchenette and sanitary facilities.

APARTMENT, HOTEL. An apartment house which furnishes services for the use of its tenants which are ordinarily furnished by hotels.

APARTMENT HOUSE. See **MULTI-FAMILY DWELLING.**

AUTOMOBILE REPAIR.

(1) **MAJOR AUTOMOBILE REPAIR.** General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers; collision services, including body, frame, or fender straightening or repair; overall painting or paint shop, and vehicle steam cleaning.

(2) **MINOR AUTOMOBILE REPAIR.** Incidental body or fender work, other minor repairs, painting, and upholstering, and replacement of parts and motor service to passenger cars and trucks not exceeding 1-1/2 tons in capacity, but not including any operation named in division (1) above, or any other operation similar thereto.

AUTOMOBILE SALES AREA or TRAILER SALES AREA. An open area, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

AUTOMOBILE SERVICE STATION or FILLING STATION. A place where gasoline or other motor fuel lubricants, tires, batteries, accessories, and supplies for operating and equipping motor vehicles are sold at retail to the public and deliveries are made directly into or onto motor vehicles, including greasing and oiling, and, if within an enclosed building, incidental battery, brake, muffler, and tire service.

BASEMENT. A story whose floor is more than 12 inches but not more than half of its story height below the average level of the adjoining ground (as distinguished from a cellar, which is a story more than one-half below such level). A **BASEMENT**, when used as a dwelling, shall be counted as a story for purposes of height measurement, and as a half-story for purposes of side yard determination.

BEGINNING OF CONSTRUCTION. The incorporation of labor and material within the walls of the building.

BILLBOARD or SIGNBOARD. Any structure or portion thereof, situated on private premises on which lettered, figured, or pictorial matter is displayed for advertising purposes, other than the name and occupation of the user of the premises or the nature of the business conducted thereon, or the products primarily sold or manufactured thereon, or any such structure or portion thereof the area of which, devoted to advertising purposes, exceeds 100 square feet. A **BILLBOARD** or **SIGNBOARD** shall not be held to include any board, sign, or surface used to display any official notices issued by any court or public office, or posted by a public officer in the performance of a public duty, or bulletin boards used to display announcements of meetings to be held on premises wherein such bulletin boards are located, nor shall it be held to include a real estate sign advertising for sale or rent the property on which it stands.

BOARD. The Board of Zoning Appeals of the village.

BOARDINGHOUSE or LODGING HOUSE. A dwelling or part thereof where meals or lodging are provided for compensation for five or more persons who are not transients.

BUILDING. Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one or more un-pierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements as hereinafter provided in this chapter.

BUILDING, HEIGHT OF. The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs.

CELLAR. A story the floor of which is more than one-half of its story height below the average contact ground level at the exterior walls of the building. A CELLAR shall be counted as a story, for the purpose of height regulations, only if used for dwelling purposes other than by a janitor or caretaker employed on the premises.

CLINIC. A place used for the care, diagnosis, and treatment of sick, ailing, infirm, and injured persons. However, such persons are not provided with board or room nor kept overnight on the premises.

CLUB. A nonprofit association of persons who are bona fide members, paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

DISTRICT. A portion of the territory of the village within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter:

- (1) **R DISTRICT.** Any R-1, R-2, or R-3 District;
- (2) **B DISTRICT.** Any B-1, B-2, or B-3 District, and;
- (3) **M DISTRICT.** Any M-1 or M-2 District.

DWELLING.

- (1) **DWELLING.** Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or trailer coach, or boarding or rooming house.
- (2) **GROUP HOME.** A dwelling designed for or used exclusively for residential purposes by a group or not more than ten mentally retarded persons excluding employees, approved and regulated by the health officials of the village and by the Ohio Department of Welfare, or by the Ohio Department of Mental Health and Mental Retardation.

DWELLING GROUP. A group of two or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.

DWELLING: ONE, TWO, AND MULTI- FAMILY.

- (1) **ONE-FAMILY DWELLING.** A building designed for or used exclusively for residence purposes by one family or house- keeping unit.
- (2) **TWO-FAMILY DWELLING.** A building designed for or used exclusively by two families or housekeeping units.

(3) MULTI-FAMILY DWELLING. A building or portion thereof designed for or used by three or more families or house-keeping units.

DWELLING UNIT. One room or a suite of two or more rooms, designed for or used by one family for living and sleeping purposes and having only one kitchen or kitchenette.

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare, but not including buildings.

FAMILY. A person living alone, or two or more persons living together as a single housekeeping unit, in a dwelling unit, as distinguished from a group occupying a boarding house, lodging house, motel or hotel, fraternity or sorority house, or group home.

HOTEL. Any building or portion thereof used as a temporary abiding place for remuneration, with or without meals, containing 15 or more guest rooms or suites where no provision for cooking is made in any individual guest room or suite, except hospitals and jails.

JUNK YARD. A place where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawn shops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental to manufacturing operations.

KENNEL. Any structure or premises on which five or more dogs over four months of age are kept.

LAND USE PLAN. The long-range Plan for the desirable use of land in the village, as officially adopted and as amended from time to time by the Planning Commission. The purpose of such Plan is among other things, to serve as a guide in the zoning and progressive changes in the zoning of land to meet the changing needs, in the subdividing and use of undeveloped land and in the acquisition of rights-of way or sites for public purposes such as streets, parks, schools, and public buildings.

LOADING SPACE. An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts on a street, alley, or other appropriate means of access.

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

- (1) **CORNER LOT.** A lot abutting on two or more streets at their intersection or on two parts of the same street, such streets, or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.
- (2) **FRONT LOT LINE.** The line separating the lot from a street.
- (3) **INTERIOR LOT.** A lot other than a corner lot.
- (4) **LOT AREA.** The computed area contained within the lot lines.
- (5) **LOT DEPTH.** The mean horizontal distance between the front and the rear lot lines.
- (6) **LOT LINES.** The property lines bounding the lot.
- (7) **LOT WIDTH.** The mean width of the lot measured at right angles to its depth.
- (8) **REAR LOT LINE.** The lot line opposite and most distant from the front lot line.
- (9) **SIDE LOT LINE.** Any lot line other than a front or rear lot line. A SIDE LOT LINE separating a lot from a street is called a side street lot line. A SIDE LOT LINE separating a lot from another lot or lots is called an interior side lot line.
- (10) **STREET LOT LINE or ALLEY LOT LINE.** A lot line separating the lot from a street or alley.
- (11) **THROUGH LOT.** A lot having frontage on two parallel or approximately parallel streets.

MAJOR STREET PLAN. The official Major Street Plan of and as adopted by the Planning Commission establishing the location and official right-of-way widths of principal highways and streets in the village, on file in the office of the Village Clerk and the Planning Commission, together with all amendments thereto subsequently adopted.

MOTEL or MOTOR HOTEL. A series of attached, semi-attached, or detached sleeping or living units, for the accommodation of automobile transient guests and not customarily including individual cooking or kitchen facilities, such units having convenient access to off-street parking spaces, for the exclusive use of the guests or occupants.

NONCONFORMING USE. A building, structure, or premises legally existing or used at the time of adoption of this zoning code, or any amendment thereto, and which does not conform with the use regulations of the district in which located. Any such building, structure, or premises conforming in respect to use but not in respect to height, area or yards, or distance requirements from more restricted districts or uses shall not be considered a nonconforming use.

PARKING AREA

- (1) **PRIVATE PARKING AREA.** An open area for the same uses as a private garage.
- (2) **PUBLIC PARKING AREA.** An open area, other than a street or other public way, used for the parking of automobiles and available to the public, whether for a fee, free, or as an accommodation for clients or customer

PARKING SPACE. A permanently surfaced area of not less than 160 square feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of a motor vehicle.

PRIVATE GARAGE. A detached accessory building or a portion of the principal building used only for the storage of self-propelled passenger vehicles or trailers by the families residing on the premises.

RECREATIONAL CAMPING. The use of real estate for purposes of camping with tents, recreational vehicles, camping trailers, and mobile homes for periods of time aggregating not in excess of six months out of any calendar year.

SIGN, AREA OF. The total exterior surface, computed in square feet, of a sign having but one exposed exterior surface, or one-half the total of the exposed exterior surface, computed in square feet, of a sign having more than one such surface.

STANDARD, PERFORMANCE. A criterion established in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases, and other objectionable or dangerous elements generated by and inherent in or incidental to land uses.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

- (1) **FIRST STORY.** The lowest story or the ground story of any building the floor of which is not more than 12 inches below the average contact ground level at the exterior walls of the building, except that any basement or cellar used for residence purposes, other than for a janitor or caretaker or his family, shall be deemed the **FIRST STORY**.
- (2) **HALF-STORY.** A partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story. However, any partial story used for residence purposes, other than for a janitor or caretaker and his family, shall be deemed a full-story.
- (3) **MEZZANINE STORY.** A story which covers one-third or less of the area of the story directly underneath it. A mezzanine story shall be deemed a full-story in case it covers more than one-third of the area of the story directly underneath such mezzanine story.

STREET. A public right-of-way 50 feet or more in width which provides a public means of access to abutting property, or any such right-of-way more than 20 feet and less than 50 feet in width, provided it existed prior to the enactment of this chapter. **STREET** includes avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term.

STRUCTURAL ALTERATIONS. Any change in the structural members of a building such as walls, columns, beams, or girders.

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

THOROUGHFARE (PRIMARY or SECONDARY). An officially designated federal or state numbered highway or county or other road or street designated as a primary thoroughfare on the Major Street Plan of the village, or a county or other road or street designated as a secondary thoroughfare on such Plan, respectively.

TOURIST HOME. A building or part thereof, other than a hotel, boarding house, lodging house, or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.

TRAILER, AUTOMOBILE TRAILER, TRAILER COACH and MANUFACTURED MOBILE HOME. Any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping and eating quarters or the conduct of any business, trade, or occupation, or use as a selling or advertising device, or use for storage or conveyance for tools, equipment, or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, customarily propelled by motor power other than its own.

TRAILER PARK. Any lot or part thereof, or any parcel. of land, which is used or offered as a location for two or more trailers. See **TRAILER.**

USE. The purpose of which land or a building or structure is arranged, designed or intended, or for which either land or a building or structure is, or may be, occupied or maintained.

USE FIRST PERMITTED IN X DISTRICT. A use which in the sequence of successively less restricted districts occurs as a permitted use for the first time in the X District.

YARD. An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

- (1) **FRONT YARD.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.
- (2) **MEASUREMENT OF FRONT YARD.** Front yard depth shall be measured from the right-of way line of the existing street on which the lot fronts (the front lot line). However, if the proposed location of the right-of-way line of such street, as established on the Major Street Plan, differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on the Major Street Plan.
- (3) **MEASUREMENT OF SIDE YARD LEAST WIDTH.** Side yard width shall be measured from the nearest side lot line and, in case the nearest side lot line is a side street lot line, from the right-of-way line of the existing street. However, if the proposed location of the right-of-way line of such street, as established on the Major Street Plan, differs from that of the existing street, then the required side yard least width shall be measured from the right-of-way of such street as designated on the Major Street Plan
- (4) **REAR YARD.** A yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line and a line parallel thereto on the lot.
- (5) **SIDE YARD.** A yard extending the full depth of the lot, the width of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

ZONING CERTIFICATE. A document issued by the Zoning Inspector authorizing buildings, structures, or uses consistent with the terms of this Zoning Ordinance for the purpose of carrying out and enforcing its provisions.

ZONING INSPECTOR. The Zoning or Building Inspector of the village, or his authorized representative.

ZONING MAP. The zoning map of the village, dated (November 2003), together with all amendments subsequently adopted.

GENERAL PROVISIONS

§ 152.010 PURPOSE.

This zoning code is enacted for the purpose of promoting public health, safety, morals, comfort, and general welfare; to conserve and protect property and property values; to secure the most appropriate use of land, and to facilitate adequate and economical provisions for public improvements, all in accordance with a comprehensive plan for the desirable future development of the village, and to provide a method of administration and to prescribe penalties for the violations of provisions hereafter described.

Statutory reference:

Zoning applies to housing projects, see R. C. § 3735.44

§ 152.011 INTERPRETATION OF STANDARDS.

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

Cross-reference:

Board interpretation of zoning map, see § 152.034

Effect on pending applications for building permits, see § 152.062

Interpretation of zoning boundaries, see § 152.074

§ 152.012 SEVERABILITY AND VALIDITY

This Zoning Ordinance and the various titles, chapters, and sections thereof are hereby declared to be severable. If any chapter, section, subsection, paragraph, sentence, or phrase of this Zoning Ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Zoning Ordinance shall not be affected thereby.

§ 152.013 AUTHENTICATION.

The Village Clerk is ordered and directed to certify to the passage of this zoning code and to cause the same to be published once in the Coshocton Tribune, a newspaper of general circulation, published in the city of Coshocton and circulated in the Village of West Lafayette. This zoning code shall be effective 30 days after its passage.

§ 152.014 ZONING INSPECTOR.

There is established the position of Zoning Inspector. It shall be the duty of such person designated as the Zoning Inspector to enforce this chapter in accordance with the administrative provisions of the building code and this chapter. All departments, officials, and public employees of the village vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter and shall issue no permit or license for any use, building, or purpose in conflict with the provisions of this chapter. Any permit or license issued in conflict with the provisions of this chapter shall be null and void. The Zoning Inspector shall be appointed and removed by the Mayor, subject to the consent of the legislative authority.

Statutory reference:

Violation of zoning ordinance, see R. C. § 713.13

§ 152.015 ZONING CERTIFICATE APPLICATION PLANS.

- (A) Every application for a zoning certificate shall be accompanied by plans in duplicate (2), drawn to scale in black line or blue print, showing the actual shape and dimensions of the lot to be built on or to be changed in its use, in whole or in part; the exact location, size, and height of any building or structure to be erected or altered; the existing and intended use of each building or structure, or part thereof-, the number of families or housekeeping units the building is designed to accommodate; when no buildings are involved, the location of the present use and proposed use to be made of the lot, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter.
- (B) One copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Inspector, together with such zoning certificates as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built on shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

Cross-reference:

Pending applications for building permits, see § 152.062

§ 152.016 WATER AND SANITARY FACILITIES.

In every case where the lot is not provided and is not proposed to be provided with a public water supply or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a certificate of approval by the County Health Department of the proposed method of water supply or disposal of sanitary wastes.

§ 152.017 ZONING CERTIFICATE REQUIRED.

- (A) No owner shall use or permit the use of any structure, building, or land, or part thereof, hereafter created, erected, changed, converted, or enlarged, wholly or partly, until a zoning certificate shall have been issued by the Zoning Inspector. Such zoning certificate shall show that such building or premises, or part thereof, and the proposed use thereof, are in conformity with the provisions of this chapter.
- (B) It shall be the duty of the Zoning Inspector to issue a zoning certificate, provided he is satisfied that the structure, building, or premises, and the proposed use thereof, and the proposed methods of water supply and disposal of sanitary wastes, conform with all the requirements of this chapter,

Penalty, see § 152.999

Cross-reference:

Certificate required for enlargement of motels or trailer camps, see § 152.241

Review of certificate or building permit applications for performance standard compliance,

See §152.287

Zoning certificate defined, see § 152.004

§ 152.018 EXCAVATION OR CONSTRUCTION PERMIT

No permit for excavation or construction shall be issued by the Zoning Inspector unless the plans, specifications, and the intended use conform to the provisions of this chapter.

§ 152.019 ZONING CERTIFICATE ISSUANCE; REFUSAL; 30-DAY LIMITATION.

The Zoning Inspector shall act on all such applications on which he is authorized to act by the provisions of this chapter within 30 days after they are filed in full compliance with all the applicable requirements. He shall either issue a zoning certificate within such 30 days or shall notify the applicant in writing of his refusal of such certificate and the reasons therefor. Failure to notify the applicant in case of such refusal within 30 days shall entitle the applicant to a zoning certificate, unless the applicant consents to an extension of time.

§ 152.020 FEES.

(A) No fee shall be charged for an original zoning certificate applied for with the application for a building permit, where such permit is required and issued under the building code.

(B) For all other zoning certificates, there shall be a fee, and the charge therefor shall be \$5 per certificate.

§ 152.021 VIOLATIONS; REMEDIES

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of this Zoning Ordinance or any amendment or supplement thereto, Council, the Village Solicitor, Zoning Inspector or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate actions or proceedings to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

§ 152.022 PENALTY

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or land in violation of any of the provisions of this Zoning Ordinance, or any amendment or supplement thereto adopted by Council. Any person, firm, or corporation violating any of the provisions of this Zoning Ordinance, or any amendment or supplement thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00). Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense.

BOARD OF ZONING APPEALS

§ 152.025 CREATION.

A Board of Zoning Appeals is created. Such Board shall consist of five members who shall be residents of the village. The members shall be appointed by the Mayor and confirmed by Council. Vacancies shall be filled in the same manner for the unexpired term. The terms of all members shall be of such length and so arranged that the term of one member will expire each year. Each member shall serve until his successor is appointed and qualified. Members of the Board shall be removable for nonperformance of duty, misconduct in office, or other causes by Council, on

written charges having been filed with Council and after a public hearing has been held regarding such charges, a copy of the charges having been served on the member so charged at least ten days prior to the hearing, either personally or by registered mail, or by leaving the same at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges.

§ 152.026 RULES, OFFICERS, AND MINUTES.

The Board shall organize and adopt rules for its own government in accordance with this chapter. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on 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 immediately filed in the office of the Zoning Inspector and shall be a public record.

§ 152.027 QUORUM AND VOTING.

Three members of the Board shall constitute a quorum. The Board shall act by resolution, and the concurring vote of three members of the Board shall be necessary to reverse any order or determination of the Zoning Inspector or to decide in favor of an applicant in any matter on which the Board has original jurisdiction under this chapter, or to grant any variance from the requirements stipulated in this chapter.

§ 152.028 ASSISTANCE FROM VILLAGE DEPARTMENTS.

The Board may call on village departments for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.

§ 152.029 APPLICATIONS FOR APPEALS; NOTICE.

(A) Applications. An application, in cases in which the Board has original jurisdiction under the provisions of this chapter, may be taken by any property owner, including a tenant, or by a governmental officer, department, board, or bureau. Such application shall be filed with the Zoning Inspector, who shall transmit the same to the Board.

(B) Notice of appeal. An appeal to the Board may be taken by any person aggrieved or by any office of the village affected by any decision of the Zoning Inspector. Such appeal shall be taken within 20 days after the decision, by filing with the Zoning Inspector and with the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record on which the action appealed from was taken.

§ 152.030 HEARING DATE; NOTICE; APPEAL.

(A) The Board shall fix a reasonable time for the hearing of the application or appeal give ten days' notice to the parties in interest and decide the same within a reasonable time after it is submitted. Each application or appeal shall be accompanied by a check payable to the Village Treasurer, or a cash payment sufficient in amount to cover the cost of publishing or posting, and mailing the notices of the hearing or hearings, but in no event shall it be less than \$15. At the hearing, any party may appear in person or by attorney.

(B) Any party adversely affected by the decision of the Board may appeal to the county court of common pleas, on the ground that the decision was unreasonable or unlawful.

The court may affirm, reverse, vacate, or modify the decision complained of in the appeal.

§ 152.031 DECISIONS OF BOARD.

(A) The Board shall decide all applications and appeals within 30 days after the final hearing thereon.

(B) A certified copy of the Board's decision shall be transmitted to the applicant or appellant, and to the Zoning Inspector. Such decision shall be binding on the Zoning Inspector and observed by him, and he shall incorporate the terms and conditions of the same in the zoning certificate to the applicant or appellant, whenever a certificate is authorized by the Board.

(C) A decision of the Board shall not become final until the expiration of five days from the date such decision is made, unless the Board shall find the immediate taking effect of such decision is necessary for the preservation of property or personal rights, and shall so certify on the record.

Statutory reference:

Appeals from zoning decisions, see R.C. § 713.11

§ 152.032 STAY OF PROCEEDINGS.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board after notice of appeal shall have been filed with him that by reasons of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order which may, on due cause shown, be granted by the Board, on application, after notice to the Zoning Inspector, or by judicial proceedings.

§ 152.033 POWERS OF BOARD.

The powers of the Board shall be as hereinafter specified.

(A) Conditional uses, special exceptions, and zoning map interpretation. The Board shall have the power to hear and decide, in accordance with the provisions of this chapter, applications, filed as herein before provided, for conditional uses, special exceptions or for interpretation of the zoning map, or for decisions on other special questions on which the Board is authorized by this chapter to pass. In considering an application for a conditional use, a special exception, or interpretation of the zoning map, the Board shall give due regard to the nature and condition of all adjacent uses and structures. In authorizing a conditional use or special exception, the Board may impose such requirements and conditions with respect to location, construction, maintenance, and operation, in addition to those expressly stipulated in this chapter for the particular additional use or special exception, as the Board may deem necessary for the protection of adjacent properties and the public interest.

(B) Other conditional uses. In addition to permitting the conditional uses and special exceptions herein before specified, the Board shall have the power to permit the following conditional uses and special exceptions:

(1) Substitution of nonconforming uses. The substitution of a nonconforming use existing at the time of enactment of this chapter by another nonconforming use, if no structural alterations, except those required by law or resolution, are made, provided, that in an R District no change shall be authorized by the Board to any use which is not a permitted or conditional use in any R District, and in a B

District no change shall be authorized to any use which is not a permitted or conditional use in any B District.

(2) Extension of nonconforming uses. The extension of a nonconforming building on the lot occupied by such building, or on an adjoining lot, provided that such lot was under the same ownership as the lot in question at the time the use of such building became a nonconforming use; that the value of such extension shall not exceed in all 25% of the assessed valuation for tax purposes of the existing building devoted to a nonconforming use, and that such extension shall be within a distance of not more than 50 feet of the existing building or premises; that such extension shall in any case be undertaken within five years of the enactment of this chapter and that the Board shall not authorize any extension or enlargement which would result in extending the useful life of a nonconforming building, or which would result in violation of the provisions of this chapter with respect to any adjoining premises.

(3) Extension of use on border of district. The extension of a use or building into a more restricted district immediately adjacent thereto, but not more than 25 feet beyond the dividing line of the two districts, under such conditions as will safeguard development in the more restricted district.

(4) Conditional industrial uses. Permitting in such parts of any M-2 District as are more than 500 feet distant from any R District, and more than 200 feet from every other district, except an M-1 District, any of the industries or uses listed in §152.181. In doing so, the Board may require the installation, operation, and maintenance in connection with the proposed use of such devices or such methods of operation as may, in the opinion of the Board, be reasonably required to prevent or reduce fumes, gas, dust, smoke, odor, water-carried waste, noise, vibration, or similar objectionable features, and may impose such conditions regarding the extent of open spaces between such industries or uses and surrounding properties as will tend to prevent or reduce the harm which might otherwise result from the proposed use of surrounding properties and neighborhoods.

(5) Temporary structures and uses. The temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this chapter for the district in which it is located, provided that such use is of a temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit, for not more than a 12-month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

Cross-reference::

Additional prohibited uses, see § 152.047

Authorizing additional uses, see § 152.046

Review of existing dangerous or objectionable uses, see § 152.286

§ 152.034 INTERPRETATION OF ZONING MAP.

Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the zoning map, the Board, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purpose of this chapter. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the zoning map may be made to the Board and a determination shall be made by the Board.

§ 152.035 ADMINISTRATIVE REVIEW.

The Board shall have the power to hear and decide appeals, filed as herein before provided, where it is alleged by the appellant that there is error in any order, requirement, decision, grant, or refusal made by the Zoning Inspector or other administrative official in the interpretation of the provisions of this chapter.

§ 152.036 VARIANCES.

(A) Power to grant; hardship restriction. The Board shall have the power to authorize on appeal in specific cases, filed as herein before provided, such variances from the provisions or requirements of this chapter as will not be contrary to the public interest, but only in such cases where, owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of this chapter would cause undue and unnecessary hardship.

(B) Attachment of conditions. Where, by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of this chapter or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this chapter would involve practical difficulty or would cause unnecessary hardship (unnecessary to carry out the spirit and purpose of this chapter) the Board shall have power to authorize a variance from the terms of this chapter, so as to relieve such hardship and so that the spirit and purpose of this chapter shall be observed and substantial justice done. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of this chapter and in the public interest. In authorizing a variance with attached conditions, the Board shall require evidence, and guarantee or bond, as it may deem to be necessary, that the conditions attached are being and will be complied with.

(C) Required findings of Board. No such variance in the provisions or requirements of this chapter shall be authorized by the Board unless the Board finds, beyond reasonable doubt, that all the following facts and conditions exist:

(1) Exception circumstances. That there are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes of uses in the same zoning district;

(2) Preservation of property rights. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity;

(3) Absence of detriment. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest.

(D) Formulation of general regulation. No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property, or the intended use of such property for which variance is sought (one or the other, or in combination) is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

(E) Power to reverse, affirm, or modify. In exercising its power the Board may, in conformity with the provisions of statute and of this chapter, reverse or affirm, wholly or partly, or may 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 all powers of the officer from whom the appeal is taken.

Cross-reference:

Extension of district when lot divided, see § 152.073

Modification of off-street parking and loading requirements, see § 152.230

Nonconforming uses and buildings, see §§ 152.190 - 152.196

DISTRICT GENERAL REGULATIONS

§ 152.045 CONFORMANCE.

Except as hereinafter specified, no land, building, structure, or premises shall hereafter be used, and no building or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the district in which it is located. Such regulations include, but are not limited to, the following: the use of buildings, structures, or land, including performance standards for the control of any dangerous and objectionable elements, as defined herein, in connection with such use; the height, size, and dimensions of buildings or structures; the size or dimensions of lots, yards, and other open spaces surrounding buildings; the provision, location, size, improvement, and operation of off-street parking, loading, and unloading spaces. Penalty, see § 152.999

Cross-reference:

Enforcement by Zoning Inspector, see § 152.014

§ 152.046 ADDITIONAL PERMITTED USES.

Uses other than those specifically mentioned in this chapter as permitted uses in each of the districts also may be allowed therein, provided that, in the judgment of the Board, as evidenced by resolution of record, such other uses are of similar character to those mentioned and will have no adverse influence or no more adverse influence on adjacent properties or the neighborhood or the community than the permitted uses specifically mentioned for the district.

§ 152.047 ADDITIONAL PROHIBITED USES.

Uses other than those specifically prohibited in this chapter in any district shall also be prohibited therefrom provided that, in the judgment of the Board, as evidenced by resolution of record, such other uses are similar in character to those specifically prohibited in that they would have similar or more serious adverse influence on adjacent properties, the neighborhood, or the community than the uses specifically mentioned as prohibited in the district.

§ 152.048 CONVERSION OF DWELLINGS.

The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units of families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this chapter, and only when the resulting occupancy will comply with the requirements governing new construction in such district, with respect to minimum lot size, lot area per dwelling unit, percentage of lot coverage, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified hereinafter within the chapter applying to such district. The aforesaid requirements with respect to lot coverage, yards, and other open spaces shall not apply in case the conversion will not involve major exterior structural changes and in case:

(A) There is either a shortage of not more than 10% in the required dimensions or area of each of not more than two such requirements as to coverage, yards, and other open spaces; or

(B) The conversion will result in lot area, per dwelling unit or family, at least 20% greater than required for new buildings in the district.

Penalty, see § 152.999

§ 152.049 REAR DWELLINGS

No building in the rear of a principal building on the same lot shall be used for residential purposes unless it conforms to all the yard and other open space and off-street parking requirements of this code, and for the purpose of determining the front yard in such cases, the rear line of the required rear yard for the principal building in front shall be considered the front line for the building in the rear. In addition, there must be provided for any such rear dwelling, an unoccupied and unobstructed accessway not less than ten feet wide to a public street for each dwelling unit in such dwelling, or one not less than 30 feet wide for three or more dwelling units. Penalty, see § 152.999

§ 152.050 TRANSITIONAL USES IN R DISTRICTS.

In any R-1, R-2, or R-3 District a transitional use shall be permitted on a lot, the side lot line of which adjoins either directly or across an alley any B or M District. The permitted transitional uses for any lot in an R-1 District shall be any use permitted in the R-2 District, for any lot in an R-2 District, any use permitted in the R-3 District. In the case of any such lot in an R-1 or R-2 District, the requirements governing lot area per dwelling unit, off-street parking, yards, and other open spaces shall be the same as for the next following less restricted district listed in §§ 152.100 through 152.104, §§ 152.110 through 152.114, and §§ 152.120 through 152.124. Any transitional use authorized under this chapter shall not extend more than 100 feet from the side lot line of the lot abutting on the zoning district boundary line. Penalty, see § 152.999

§ 152.051 YARDS ALONG DISTRICT BOUNDARY.

Along any zoning boundary line, on a lot adjoining such boundary line in the less restricted district, any abutting side yard, rear yard, or court, unless subject to greater restrictions or requirements stipulated by other provisions of this chapter, shall have a minimum width and depth equal to the average of the required minimum width or depth for such side yards, rear yards, or courts in the two districts on either side of such zoning boundary lines. In cases where the height of a proposed structure on such in the less restricted district is greater than the maximum height permitted in the adjoining more restrict district, the minimum depth or width of the side yard, rear yard, or court for such structure shall be determined by increasing the minimum width or depth for the highest structure permitted in such more restricted district by one foot for each two feet by which the proposed structure exceeds the maximum height permitted in the more restricted district.

§ 152.052 ACCESSORY USES IN R DISTRICTS.

(A) Generally. In any R District an accessory building may be erected detached from the principal building or may be erected as an integral part o the principal building, or it may be connected therewith by a breezeway or similar structure. Except as provided in §152.211, no accessory building shall be erected in any required yard or court, except a rear yard, and shall not occupy more than 35% of a required rear yard. Accessory buildings shall be distant at least six feet from any dwelling situated on the same lot, unless an integral part thereof, at least six feet from any other accessory building and at least three feet from all lot lines of adjoining lots which are within any R District.

(B) Corner lots. In any R District where a corner lot adjoins in the rear a lot fronting on the side street and located in an R District, no part of an accessory building on such corner lot within 25 feet of the common lot line shall be nearer a side street lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot, and in no case shall any part of such accessory building be nearer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory.

(C) Front setback. No accessory use or structure in any R District, except an off-street parking area subject to the provisions of §§ 152.220 through 152.232, shall be permitted nearer to any front lot line than 60 feet, unless such use or structure is contained within or connected thereto, provided that in the case of a corner lot where choice by the owner of the longer street lot line has been approved as the front lot line, this requirement shall apply only to the distance of an accessory building from the shorter street lot line.

(D) Yard requirements. Except as provided in §§ 152.207 through 152.210, an accessory building, if not located in the rear yard, shall be an integral part of, or connected with, the principal building to which it is accessory, and shall be so placed as to meet all yard and court requirements for a principal building of the same height and other dimensions as such accessory building.

(E) Without main building. In any R District no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building.

Penalty, see § 152.999

§ 152.053 MINIMUM GROUND FLOOR AREA.

(A) One-story dwellings. A one-story dwelling shall contain not less than 750 square feet of usable ground floor area, exclusive of open porches, garages, carports, or steps.

(B) One and one-half and two-story dwellings. A one and one-half or two-story dwelling shall contain not less than 650 square feet of ground floor area, exclusive of open porches, garages, carports, or steps.

§ 152.054 PERFORMANCE STANDARDS; COMPLIANCE.

Even though compliance with performance standards' procedure, in §§ 152.285 through 152.287, may not be expressly required for a particular use, initial and continued compliance with performance standards is required of every use.

Cross-reference:

Interpretation of standards, see § 152.011

Performance standards, see §§ 152.285 - 152.287

Performance standard defined, see § 152.004

§ 152.055 STREET FRONTAGE.

Except as permitted by other provisions of this chapter, no lot shall contain any building used in whole or part for residential purposes unless such lot abuts for at least 20 feet on a street. Twenty (20) foot width to run continuous to dwelling lot. There shall be not more than one single-family dwelling for such frontage. Penalty, see § 152.999

§ 152.056 TRAFFIC VISIBILITY ACROSS CORNER LOTS.

In any R District on any corner lot, no fence, structure, or planting shall be erected or maintained within 20 feet of the corner (the point of intersection of the right-of-way line) which interferes with traffic visibility across the corner.

Penalty, see § 152.999

§ 152.057 REDUCTION OF AREA OR SPACE.

No lot, yard, court, parking area, or other space shall be reduced in area or dimension so as to make such area or dimension less than the minimum required by this chapter. No part of a yard, court, parking area, or other space provided about or for any building or structure for the purpose of complying with the provisions of this chapter shall be included as part of a yard, court, parking area, or other space required under this chapter for another building or structure. Penalty, see § 152.999

§ 152.058 OFF-STREET PARKING AND LOADING.

In every district spaces for off-street parking and for off-street loading and unloading shall be provided in accordance with the provisions of §§ 152.220 through 152.232. Penalty, see § 152.999

§ 152.059 ENCROACHING GARAGE DOORS.

Every garage building or portion of a main building used for garage purposes shall be so equipped that the doors when open or being opened will not project beyond any lot line of the lot on which such building is located. When such doors open to an alley, the wall or portion thereof containing such doors shall be at least six feet from the line forming the common boundary between such lot and the alley. Penalty, see § 152.999

§ 152.060 ESSENTIAL SERVICES.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the village, it being the intention hereof to exempt such essential services from the application of this chapter.

§ 152.061 UNSAFE BUILDINGS.

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

§ 152.062 PENDING APPLICATIONS FOR BUILDING PERMITS.

Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated use of any development, building, structure, or part thereof for which official approvals and required building permits have been granted before the enactment of this chapter the construction of which shall have been started within three months after the effective date of this chapter.

§ 152.063 PARKING TRUCKS IN R DISTRICTS.

No truck or other commercial vehicle of a rated weight of more than 5 tons shall be parked on any street or on any residential premises in any R District for any consecutive period of four hours or more, provided that nothing herein shall prevent the parking of such vehicle in a fully enclosed garage or similar permanent structure.

Penalty, see § 152.999