

**CHAPTER 150  
ZONING ORDINANCE  
VILLAGE OF WEST UNION**

**ARTICLE I  
GENERAL ORGANIZATION**

**SECTION 150.000. ENACTMENT.**

Be it ordained by the Village Council of the Village of West Union, Adams County, Ohio that it finds it necessary and advisable to regulate the location height, number of stories of buildings and other structures, the percentage of lot areas which may be occupied, building setback lines, sizes of yards and other spaces, the density of development, and the uses of land for residences, business, industrial, recreation or other purposes, divides the Village of West Union into zones or districts and hereby so enacts this Ordinance.

**SECTION 150.001. TITLE.**

This chapter 150 as enacted by this Ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the Village of West Union, Tiffin Township, Adams County, Ohio.

**SECTION 150.002. PURPOSE.**

For the purpose of promoting the health, safety, and general welfare; to conserve and protect property and property values; to secure the most appropriate use of land; and to facilitate adequate but economical provisions of public improvements, all in accordance with provisions of Article XVIII; Section 3 of the Ohio Constitution and the laws of the State of Ohio, it is hereby provided as follows in this Chapter 150 of the Ordinances of the Village of West Union.

**SECTION 150.003. INTERPRETATION.**

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, and the general welfare. Whenever the requirements of this ordinance conflict 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 150.004. SEPARABILITY.**

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

**SECTION 150.005. EFFECTIVE DATE.**

This Ordinance shall become effective from and after the date of its approval and adoption, as provided by law.

**SECTION 150.006. ZONING DISTRICTS.**

In order to classify, regulate and restrict the location of traders, industries, residences, recreation and other land uses, and the location of buildings designed for specific uses; to regulate the size of buildings and other structures erected or altered; and the size of yards and other open spaces, setback and building lines, the Village of West Union, Adams County, Ohio is hereby divided into classes of districts:

"A-1"	Agricultural/Institutional District
"R-1"	Residence District
"R-2"	Multi-Family & Mixed-Use District
"CBD"	Central Business District
"HBD"	Highway Business District
"I"	Industrial District

**SECTION 150.007. ZONE DISTRICT BOUNDARIES.**

1. The boundaries of the districts set forth in Section 150.006 of this ordinance are hereby established as shown on the map known as the Zoning Map of the Village of West Union, Tiffin Township, Adams County, Ohio, which map accompanies and is hereby declared to be a part of this ordinance. The said map and all the notations, references and other information shown thereon are as much a part of this ordinance as if the notations, references and other information were fully described herein, which map is properly attested and on file with the Village Administrator.

2. The boundaries of each district are intended to follow property lines, lot lines or centerline of streets and lanes as they existed at the time of the adoption of this ordinance. Distances can generally be scaled directly from the zoning maps but should questions arise concerning exact location of district boundary lines, the question shall be determined by the Board of Zoning Appeals in accordance with the powers delegated to the board by law and this ordinance.

3. Whenever a street, alley or public way is vacated by official action, the zoning districts adjoining each side of such street, alley or public way shall automatically extend to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

4. Whenever land is annexed into or otherwise becomes a part of the Village of West Union, or, whenever property already located within the Village has not been specifically

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included within a zoning district either through error or omission, such property shall be officially included within the **R-1** zoning district until otherwise classified.

Within 60 calendar days after an annexed area officially becomes a part of the Village of West Union, or an error or omission is recognized, the Village of West Union shall obligate itself to take action in order to initiate a zone change of the area in question to enable its most appropriate zoning classification.

### **SECTION 150.008. DEFINITIONS.**

Interpretation of Terms or Words: For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word "shall" is mandatory, the word "may" is permissive.

The word "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied."

(1) **Accessory Use or Structure:** A use of structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure and that is not suitable for human habitation. Examples are:

- Decks
- Patios
- Garages
- Temporary aluminum carports attached to a cement base
- Hot Tubs
- Workshops
- Studios
- Greenhouses
- Gazebos
- Pool houses
- Storage buildings
- Swimming pools (both above and below ground)
- Permanent athletic or recreational facilities (tennis courts, basketball courts, soccer goals, baseball batting cages, skateboard ramps)

These structures require a permit. Before adding any of these, please check with the Village Administrator for the requirements, rules and permit process. **Please note – Accessory Structures are PROHIBITED as use for Temporary Housing.**

(2) **Addition:** An expansion which increases the footprint of a building or structure.

(3) **Alley:** A public way through the middle of a block, giving access to the rear of

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buildings and having a right of way of twenty (20) feet or less.

- (4) **Altered Structures:** Any structure that is being converted from its original use to a different use must be permitted.
  - (5) **Animal Bites:** Whenever any animal shall bite any person, the county health department must be contacted and all quarantined periods must be complied with. Failure will result in a fine and other charges.
  - (6) **Basement:** A story not having more than one-half (1/2) its height above grade.
  - (7) **Building:** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.
  - (8) **Disabled Vehicle:** Any motor vehicle which is extensively damaged, and includes, but is not limited to, the following: missing wheels, tires, motor or transmission, or, is a wrecked vehicle which is apparently inoperable.
  - (9) **Dog Tags:** All dogs in the village must comply with the Adams County Dog License laws. A dog's failure at any time to wear a valid tag means the owner will incur a fine, classified as a minor misdemeanor.
  - (10) **Driveway:** a roadway to provide access and egress primarily for the travel of vehicles between private property and the travel portion of a public street, alley or other public thoroughfare. All driveways are to be permitted.
  - (11) **Dwelling:** Any building or portion thereof which is designed as or used for non-transient residential occupancy, including single-family homes or multi-family homes, but not including hotels or motels.
    - (a) **Dwelling, Single-Family:** A detached building occupied by one family only.
    - (b) **Dwelling, Two-Family:** A building occupied by two families only with separate housekeeping and cooking facilities for each.
    - (c) **Dwelling, Multiple-Family:** A building occupied by three or more families, with separate housekeeping and cooking facilities for each.
  - (12) **Existing:** Shall mean to be present condition, activity, or effect or already created and in use for a given purpose at the time of the passage of this Ordinance.
  - (13) **Family:** One or more persons occupying a single housekeeping unit and using common cooking facilities as distinguished from a group occupying a boarding house, lodging house, or hotel.
  - (14) **Fence:** Any structure composed of wood, metal, stone, brick or other material erected to enclose, partially enclose, or divide any premises or parts of premises. Fencing and walls are covered by Village Regulations and you have to have a permit to erect a fence.
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- (15) **Flag Displays and Lighting:** All flag poles and displays and lighting for the flag poles must conform to Village Regulations. Pursuant to ORC 723.012, a property owner in a village may install a wooden flagpole and install underground lighting. For complete regulations and instructions, please see the Village Administrator.
- (16) **Flare:** A gradual widening and upward and outward curve of a driveway.
- (17) **Future:** Shall mean any activity occurring after the date of this passage of this Ordinance.
- (18) **Home Occupation:** Any occupation or activity carried on by a member of the immediate family residing on the premises, in connection with which there is no sign other than a name plate not more than six (6) square feet in area, and no display that will indicate from the exterior that the building is being used for any purpose other than that of a dwelling; there is no commodity sold upon the premises except that which is produced on the premises; no person is employed other than a member of the immediate family residing on the premises; and not more than twenty-five (25) percent of the total floor area of any dwelling unit is used for such purposes.
- (19) **Hotel:** A facility, with room entrances accessed through the interior corridor, offering transient lodging accommodations on a daily rate to the general public and providing additional services such as restaurants, meeting rooms and recreational facilities.
- (20) **Impervious Surface:** a hard surfaced area that does not readily absorb or retain water, including but not limited to parking and driveway areas, sidewalks and pavement.
- (21) **Junk & Inoperable Vehicles:** The term “junk” shall mean any and all waste matter, whether reusable or not, which is offensive to the general public, safety or to the aesthetics of the neighborhood, and which is specifically intended to include, but not limited to, scrapped out, wrecked and/or abandoned vehicles, trucks, tractors, machinery of any kind, or any parts thereof; freezers, refrigerators, stoves, mechanical equipment, washing machines, dryers, trailers, campers, mobile homes, buses and boats. The term “Inoperable motor vehicle” shall include any motor vehicle in such inoperative condition that it has been unused for thirty (30) or more consecutive days.
- (22) **Junk Yard:** Any use of land for the dismantling, wrecking, dumping, or storage of obsolete or wrecked vehicles, trailers, appliances, or other equipment, paper, rags, or other refuse.
- (23) **Keeping of Animals:** It is the intent and purpose of the village of west Union, Ohio to regulate any keeping of animals to minimize any nuisance to the residents
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of the village. The keeping of animals is restricted as follows:

- (a) No person shall keep any pig, cow, goat, poultry, fowl, sheep or any other farm animal(s), three or more dogs at least three months of age,, or three or more cats at three months of age, within the corporation limits or harbor any animals so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.
- (b) No person, being the owner of any animal, harboring or having charge or control of the same, shall permit such animal to run unfettered in any street, lane, alley, market place or public ground of the municipality or permit such animal to go upon or enter any other private yard, lot or enclosure, without consent of the owner of such yard, lot or enclosure.
- (c) No owner of any animal shall keep or maintain such animal in the Village unless it has been vaccinated by a licenses veterinarian with anti-rabies vaccine within three (3) months of owning, harboring or having control over said animal. Upon receipt of such vaccine, the animal shall receive and wear a tag upon its collar indicating the date and the fact that such anti-rabies vaccine has been administered.

- (24) **Lawn Care:** The cutting, mowing and trimming of the residence lot.
  - (25) **Litter:** Litter includes any garbage, waste, rubbish, ashes, cans, bottles, wires, cartons, boxes, automobiles, parts, tires, wagons, furniture, scraps, glass, oils, and anything else of unsanitary or unsightly nature.
  - (26) **Lot:** A piece, parcel, or plot of land occupied or intended to be occupied by a principal building and its accessory building or buildings and including yards and other open spaces required by this Ordinance.
    - (a) **Lot Area:** Means the total horizontal area within the lot lines of the lot.
    - (b) **Lot, Corner:** A lot fronting on two streets at their intersection.
    - (c) **Lot Coverage:** Is the part or percent of the lot occupys by buildings, including accessory structures.
    - (d) **Lot Depth:** is the horizontal distance between the front and rear lines, measured along the median between the side lot lines.
    - (e) **Lot, Double Frontings:** A lot having frontage on two (2) more or less parallel public streets, and which is not a Comer Lot.
    - (f) **Lot, Reverse Frontage:** A lot having frontage on two intersecting streets but not at the point of the intersection.
    - (g) **Lot Interior:** Any lot other than a corner lot.
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- (h) **Lot Lines:** are the lines bounding a lot as defined:
1. Front Lot lines: in the case of an interior lot, the front lot line is that line separating the lot from the street. In the case of a corner lot, or a double frontage lot, it is that line separating said lot from the street. This shall be designated as the front street in the plat and in the application for a certificate of compliance.
  2. Rear lot line: is that lot line opposite of the front lot line. In the case of a lot pointed to the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
  3. Side lot line: is any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- (i) **Lot Width:** is the horizontal distance between the side lot lines measured at the two points where the building line or setback intersects the side lot lines.
- (27) **Lot of Record:** Any lot which has been established as such by plat, survey, record, or deed prior to the effective date of this Ordinance as shown on the records of Adams County.
- (28) **Maximum impervious surface ratio:** means the total area of the impervious surface divided by the net total lot – as in the ratio of the pavement to the yard.
- (29) **Mobile Home:** A vehicle with or without its own motive power, equipped for or used for living purposes, and mounted on wheels or designed to be so mounted and transported.
- (30) **Mobile Home Park:** Any lot on which three (3) or more mobile homes, occupied for dwelling purposes, are located regardless of whether or not a charge is made for such accommodations.
- (31) **Motel:** A facility, with exterior room entrances, offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms and recreational facilities.
- (32) **Non-Conforming Use:** Any building, structure, or land lawfully occupied by a use at the time of the passage of this Ordinance or amendments thereto, which does not conform with the use regulations of the district in which it is situated.
- (33) **Nuisance:** Committing on a continual basis any of the following acts:
- (a) Any conduct which interferes with another's free use and comfortable enjoyment of their property;
  - (b) Any conduct which is offensive or noxious to a reasonable person or that works harm, inconvenience or damage to others with respect to their
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health, comfort, or safety:

- (c) The use of one's property so as to create or cause a detrimental effect on the property of others with respect to property value or economic depreciation.
  - (d) Any real property that is structurally unsafe, unsanitary or not provided with adequate safe egress that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that in relation to its existing use, constitutes a hazard to public health, welfare or safety by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.
- (34) **Outdoor Lighting:** In all residential areas outdoor lighting shall be so arranged as to not constitute a nuisance to passing traffic or adjoining residential properties. Glare should be limited and not encroachment on neighboring lands.
- (35) **Owner:** includes the legal or equitable owner, the person in whose name the property may be assessed for taxation on the tax duplicate, a tenant giving satisfactory guaranty that the assessment against the property signed for will be paid, or the board of education having control of any school property.
- (36) **Parking:** Defined as the unattended leaving of a motor vehicle. The village has a prohibition against parking on streets and highways. Police may remove illegally parked vehicle. (Please see Ohio Revised Code 4511.66.) Parking is prohibited on a sidewalk, within 10 feet of a fire hydrant, on a crosswalk, etc. The Chief of Police, the mayor and the Village Administrator has a complete list of the parking prohibition. Vehicles must be parked within 12 inches of the right-hand curb if parallel parking. Handicapped parking spaces can only contain permitted handicapped vehicles. Also, see restricted parking.
- (37) **Petitioner:** means the person who is applying for the permit.
- (38) **Piping:** means storm drains or culverts intended to control the flow of water.
- (39) **Polluted:** The presence of one or more contaminants in sufficient quantities of such characteristics and duration as to be injurious to human, plant or animal life, to health or to property or to unreasonably interfere with enjoyment of life or property.
- (40) **Property Owner:** The individual, couple, association, partnership or other entity that is listed as the land owner with the records of Adams County, Ohio, regardless of land installment contract, commercial lease or rental agreement.
- (41) **Public Use:** Any use of land or buildings owned and operated by a municipality, county, state, or federal government or agency thereof and for a public service or purpose.
- (42) **Restricted Parking:** No owner or operator of any vehicle shall park such vehicle
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or permit such vehicle remain parked on any part of the designated public streets and ways indicated below hereof after a snow fall of six (6) inches or more has occurred. Such parking shall be permitted if otherwise lawful, after snow accumulation upon such street has been removed or such street has been otherwise cleared of snow by the Village. Streets to be designated as Emergency Snow Removal Street in the Village of West Union, Ohio are hereby designated as follows:

- (a) Both sides of North Street
- (b) Both sides of Mulberry Street
- (c) Both sides of Walnut Street
- (d) Both sides of Cherry Street

Any vehicle who violates this will be towed and the owner will be fined. For a complete list of the finds, please contact the Mayor's Court or the Village of West Union Police Department.

- (43) **Required Driveway Specifications:** The current approved specifications listed with the Village Administrator as to thickness, size, material, curbing, required piping, culverts, storm drains, slope. These specifications must be adhered to by anyone with a current driveway who wants to make changes.
  - (44) **Retail:** The sale of commodities in small quantities or parcels directly to the consumer.
  - (45) **Safety:** Safety is a general concern and it shall be deemed to be in the best interest of the residents of the village to be assured that the existence of real property and buildings constructed upon private properties within the boundaries of West Union, Ohio are safe and free of nuisance as previously defined above.
  - (46) **Seasonal Lighting:** Seasonal lighting must not impede drivers, or the natural enjoyment and use of the neighborhood. They cannot block traffic visibility.
  - (47) **Sidewalk:** A path or paved area where people travel in neighborhoods. Sidewalks are constructed, along with curbs, gutters and we are granted authority via Ohio Revised Code 729. The Village of West Union has minimum building requirements for sidewalks and their maintenance. Please see the Village Administrator for a complete list of the minimum requirements, the rules on disrepair, nuisance, and abutting land owner requirements.
  - (48) **Sleeping Room:** A building with multiple units containing separate entrances where one or more persons live and sleep in such units that lack a separate room designated as a kitchen containing a stove and refrigerator for cooking. A bed and breakfast facility, a hotel and a motel are not to be considered sleeping rooms under this definition.
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(49) **Specific Nuisances (Enumerated):** The following are examples and include the specific nuisances for which the village will take corrective action and bill the owner. This list is not all exclusive but these items will constitute a nuisance.

- (e) **Offensive Smells:** Any business or premises which emits or causes the emission of offensive odors which taint the air, render it unwholesome or make the air unsafe to the surrounding environment is hereby declared to be a nuisance and shall be unlawful for any person to permit any such nuisance to remain or exist upon any property under his control.
- (f) **Pollution:** It shall be a nuisance and therefore, unlawful for any person to cause to be polluted the atmosphere, any waterway, stream, lake, pond, storm sewer or ground so as to render unsanitary, unsafe or dangerous to the health and well-being of any person or animal, fish or fowl coming in contact with said polluted air, water or ground within the village.
- (g) It shall be a nuisance and therefore, unlawful for any person to create or allow stagnant water to accumulate. Specifically:
  - (I) **Rain Barrels:** It is hereby declared a nuisance to locate or permit a rain barrel to be uncovered. Rain barrels shall be constructed and maintained to prevent the breeding of mosquitoes and other insects which commonly breed in stagnant water.
  - (II) The Village Administrator is directed to abate such nuisance by any means deemed necessary so as to prevent the breeding of mosquitoes and other annoying insects. The Village Administrator is further directed to contact any agency to effectuate the provision of this nuisance.
- (h) **Ground Feeding:** It shall be unlawful for any person to knowingly or intentionally leave unused animal food or food waste outdoors to accumulate and become foul, putrid, and offensive in odor, or become an attractant to rodents, nuisance birds, wild animals, vermin or insects.
- (i) **Dense Smoke:** It shall be unlawful to cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the village so as to cause annoyance, or discomfort to the residents thereof. The Village of West Union will enforce any and all open burn restrictions per the Ohio Revised Code 1503.18 and Ohio Administrative Code 3745.19.
- (j) **Noise disturbances:** It is unlawful for any person to make, continue, or cause to be made or continued, or permit, any noise disturbance which is defined as the noise:
  - (I) Endangers or injures the safety or health of humans or animals;
  - (II) Annoys or disturbs a reasonable person of normal sensitivities; or
  - (III) Endangers or injures personal or real property.
- (k) **Law Care:** Each Village resident must ensure that their grass is below eight (8) inches in height at any given time, save and except, any land that is maintained for gardening purposes.

(50) **Stagnant Water:** The term “Stagnant Water” or “Standing Water” shall mean any

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accumulation of water including, but not limited to, ponds, drainage ditches, basins or low surface level areas in which water is likely to accumulate and not drain freely, which stagnant or standing water is likely to enhance or promote the breeding of mosquitoes or other annoying insects or which is generally unhealthy or unsafe. Also areas where the standing water is causing ice hazards, impeding streets, eroding public sidewalks and roads or creating other health hazards.

- (51) **Street**: Any public or private way fifty (50) feet or more in width set aside as a permanent right of way for vehicular travel by the general public and affording the principal means of access to abutting property shall be designated as a primary street and if such public or private way be twenty (20) feet or more in width but less than fifty (50) feet in width shall be designated as a secondary street.
  - (52) **Street Right-Of-Way Line**: The dividing line between a lot and the right of way of a street.
  - (53) **Structure**: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, billboards, and poster panels. Structures shall not include lighting, lighting poles of signage.
  - (54) **Thoroughfare**: means a road or path forming a route between two places.
  - (55) **Trench Drain**: means a specific type of drain used for the rapid evacuation of surface water.
  - (56) **Vacant**: Shall refer to those lots without buildings, sheds or other improvements.
  - (57) **Vicious Animals**: Any animal which has a propensity or tendency to attack or cause injury by biting or otherwise, to any person or other domestic animal, absent provocation. Violators will be fined.
  - (58) **Village**: Village of West Union, Tiffin Township in Adams County, Ohio.
  - (59) **Wild, Dangerous or undomesticated animal**: an animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a park, zoo or exotic animal part and which is:
    - (a) Is poisonous or venomous snake or a snake that is a constrictor: or
    - (b) Is an omnivorous or carnivorous animal considered to be a predator in its natural habitat; or
    - (c) Is an animal which, by reason of its size, strength or appetite, if unrestrained or free within the Village, could cause peril to children, adults, pets, domesticated animals, buildings, landscaping or personal property, or
    - (d) Is an animal which makes noise with sufficient frequency and volume as to constitute a nuisance to person in the vicinity of such animal: or
    - (e) Is an animal which emits such offensive odors as to constitute a nuisance to persons in the vicinity of such animal.
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- (60) **Wholesale:** The sale of goods in the piece or in larger quantities to retailers or jobbers rather than consumers.
- (61) **Yard:** A required open space unoccupied and unobstructed by any structure or portion of a structure from Thirty (30) inches above the ground level of the graded lot upward.
- (l) **Front Yard:** The yard extending across the entire width of the lot between the principal building and the street right-of-way line upon which the principal building faces.
- (m) **Rear Yard:** The yard extending across the entire width of the lot between the rear plot line and the nearest part of the principal building.
- (n) **Side Yard:** A yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, being the minimum horizontal distance between a side lot line and the side of the main building.
- (62) **Yard Sale:** Also known as home sales, garage sales, tag sales, attic or carport sales and similar types of sales or events can only be held on property owned and all yard sales require a permit. The permit can be purchased at the Village of West Union Police Department. A list of the rules and regulations regarding the requirements for advertising, parking, etc. can be picked up when you purchase your permit. The number, hours and consecutive days are regulated.
- (63) **Yard Waste:** shall mean accumulations of grass or shrubbery, cuttings, leaves, trees limbs, and other materials accumulated as the result of the maintenance of lawns, shrubbery, vines and trees.
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**ARTICLE II  
PROCEDURAL**

**SECTION 150.100. GENERAL.**

This article stipulates the procedures to be followed in obtaining permits, certificates, and other legal or administrative approvals under this ordinance.

**SECTION 150.101. ZONING PERMITS REQUIRED.**

No building or other structure shall be erected, moved, added to, structurally altered nor demolished; nor shall any building, structure, or land be established or changed in use without a permit therefore, issued by the Zoning Administrator. Zoning permits shall be issued only in conformity with the provisions of this ordinance unless the Zoning Administrator receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use, or variance as provided by this Ordinance, provided however, that nothing contained herein shall be construed to require a zoning permit for the alteration, maintenance or repair of the interior of an existing building or structure or the maintenance or repair of the exterior of an existing building or structure not involving any alteration.

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**SECTION 150.102. CONTENTS OF APPLICATION FOR ZONING PERMIT.**

The application for zoning permit shall be made in writing and 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 one (1) year from the date of issuance of permit or completed within two (2) years from the date of issuance of permit. At a minimum, the application shall contain the following information and be accompanied by all required fees:

1. Name, address, and phone number of applicant;
2. Legal description of property for new use or new construction; or house number and street name for alterations or demolition;
3. Existing use;
4. Proposed use;
5. Zoning district;
6. A site plan in duplicate showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration in a form acceptable to the Zoning Administrator.
7. Building Heights;
8. Number of off-street parking spaces or loading berths, and their layout;
9. Location and design of access drives;
10. Number of dwelling units;
11. If applicable, application for a sign permit or a conditional, special, or temporary use permit, unless previously submitted;
12. Such other documentation as may be necessary to determine conformance with, and to provide for the enforcement of, this Ordinance.

**SECTION 150.103. APPROVAL OF ZONING PERMIT.**

No later than ten (10) working days after the receipt of an application and application fee, the Zoning Administrator shall either approve or disapprove the application in conformance with the provisions of this Ordinance. All zoning permits shall, however, be conditional upon the commencement of work within one (1) year from the issuance of the permit and completion within two (2) years from the issuance of the permit. One (1) copy of the plans shall be returned

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to the applicant by the Zoning Administrator either as approved or disapproved and attested to same by his/her signature on such copy. One (1) copy of plans, similarly marked shall be retained by the Zoning Administrator. The zoning permit is to be visibly displayed on the premises.

**SECTION 150.104. EXPIRATION OF ZONING PERMIT.**

If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof said permit shall expire; it shall be revoked by the Zoning Administrator; and written notice thereof shall be given to the persons affected. If the work described in any zoning permit has not been completed within two (2) years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Administrator; and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or, an extension granted.

**SECTION 150.105. CERTIFICATE OF ZONING COMPLIANCE.**

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in this use or structure, until a certificate of zoning compliance shall have been issued therefor by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this Ordinance. Such certificate shall be issued by the Zoning Administrator upon completion of construction. The issuance of a certificate of zoning compliance in no way relieves the recipient from compliance with all requirements of this Ordinance and other regulations.

**SECTION 150.106. TEMPORARY CERTIFICATE OF ZONING COMPLIANCE.**

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

**SECTION 150.107. RECORD OF ZONING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.**

The Zoning Administrator shall maintain a record of all zoning permits and certificates of zoning compliance, and copies shall be furnished, upon request and upon payment of the established fee to any person.

**SECTION 150.108. FAILURE TO OBTAIN A ZONING PERMIT OR CERTIFICATE OF ZONING COMPLIANCE.**

Failure to obtain a zoning permit or certificate of zoning compliance shall be a punishable violation of this Ordinance.

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**SECTION 150.109. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES.**

Zoning permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a punishable violation of this Ordinance. The issuance of a zoning permit and a certificate of zoning compliance in no way relieves the recipient from compliance with all requirements of this Ordinance and other regulations.

**SECTION 150.110. 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 Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate and take action thereon as provided by this Ordinance.

**SECTION 150.111. ENTRY AND INSPECTION OF PROPERTY.**

The Zoning Administrator is authorized to make inspections of the properties and structures in order to examine and survey the same, at any reasonable hour, for the purpose of enforcing the provisions of this Ordinance. Prior to seeking access to any property or structure for such examination or survey, the Zoning Administrator will attempt to obtain the permission of the owner or occupant to inspect and keep documentation thereof. If entry for inspection is unreasonably denied by the owner or occupant, the Zoning Administrator may exercise such remedies as provided for in Section 150.117 herein.

**SECTION 150.112. STOP WORK ORDER.**

Subsequent to his/her determination that work is being done contrary to this Ordinance, the Zoning Administrator may write a stop work order and post it on the premises involved. Removal of a stop work order, except by the order of the Zoning Administrator, shall constitute a punishable violation of this Ordinance.

**SECTION 150.113. ZONING PERMIT REVOCATION.**

The Zoning Administration may issue a revocation notice to revoke a permit or administrative approval which was issued contrary to this Ordinance or based upon false information or misrepresentation in the application.

**SECTION 150.114. NOTICE OF VIOLATION.**

Whenever the Zoning Administrator or his/her agent determines that there is a violation of any provision of this Ordinance, a notice shall be issued and shall serve as a notice of violation. Such order shall:

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- a. Be in writing;
- b. Identify the violation;
- c. Include a statement of the reason or reasons why it is being issued and refer to the sections of this Ordinance being violated; and
- d. State the time by which the violation shall be corrected.

Service of notice of violation shall be as follows:

- a. By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of suitable age and discretion; or
- b. By certified mail deposited in the United States Post Office addressed to the person or persons responsible at a last known address. If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail, and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Zoning Administrator. Service shall be deemed complete when the fact of mailing is entered of record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery; or
- c. By posting a copy of the notice form in a conspicuous place on the premises found in violation.

#### **SECTION 150.115. COURT SUMMONS PROCEDURE.**

If, upon re-inspection following the issuance of a notice of violation, the condition has not been corrected, the person or persons responsible shall be issued a court-summons, which shall:

- a. Be served personally;
- b. Be in writing;
- c. Identify the violation; and
- d. State the time, date and place for appearance in court.

If the court-summons cannot be served personally, the Zoning Administrator shall request that the summons be served by an Officer of the Court.

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**SECTION 150.116. PENALTIES AND FINES.**

Any person, firm or corporation who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one hundred (\$ 100.00) dollars and in addition shall pay all costs 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, agency, 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.

**SECTION 150.117. ADDITIONAL REMEDIES.**

Nothing in this Ordinance shall be deemed to abolish, impair or prevent other additional remedies as provided by law. In the event of a violation of any provision or requirement of this Ordinance, or in the case of an imminent threat of such a violation, the Zoning Administrator, the Village Solicitor, or the owner of any neighboring property who would be especially damaged by such violation, may, in addition to other resources provided by law, institute mandamus, injunction, abatement, search warrant or other appropriate actions to inspect, prevent, remove, abate, enjoin, or terminate such violation.

**ARTICLE III  
ADMINISTRATION**

**SECTION 150.200. PURPOSE.**

This article sets forth the powers and duties of the Planning Commission, the Board of Zoning Appeals, Village Council, and the Zoning Administrator with respect to the administration of the provisions of this Ordinance.

**SECTION 150.201. GENERAL PROVISIONS.**

The formulation, administration and enforcement of this Zoning Ordinance is hereby vested in the following offices and bodies within the Village of West Union, Adams County, Ohio, government:

- I. Zoning Administrator
  2. Planning Commission
  3. Board of Zoning Appeals
  4. Village Council
  5. Village Solicitor
  6. Village Fiscal Officer
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**SECTION 150.202. ZONING ADMINISTRATOR.**

A Zoning Administrator designated by the Village Council shall administer and enforce this Ordinance. He/she may be provided with the assistance of such other persons as the Village Council may direct.

**SECTION 150.203. RESPONSIBILITIES OF ZONING ADMINISTRATOR.**

For the purpose of this Ordinance, the Zoning Administrator shall have the following duties:

1. Enforce the provisions of this Ordinance, and interpret the meaning and application of its provisions.
  2. Respond to questions concerning applications for amendments to the Zoning Ordinance text and the Official Zoning District Map.
  3. Issue zoning permits and certificates of zoning compliance as provided by this Ordinance, and keep a record of same with a notation of any special conditions involved.
  4. Act on all applications upon which he/she is authorized to act by the provisions of this Ordinance within the specified time or notify the applicant in writing of his/her refusal or disapproval of such application and the reasons therefor. Failure to notify the applicant in case of such refusal or disapproval within the specified time shall entitle the applicant to submit his/her request to the Board of Zoning Appeals.
  5. Conduct inspections of buildings and uses of land to determine compliance with this Ordinance and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.
  6. Assist the Village Fiscal Officer to maintain, or cause to be maintained, in current status the Official Zoning District Map which shall be kept on permanent display in the Village Offices.
  7. Maintain permanent and current records required by this Ordinance, including but not limited to zoning permits, zoning certificates, inspection documents, application fees and records of all variances, amendments and special uses.
  8. Make such records available for the use of the Village Council, the Planning Commission, the Board of Zoning Appeals, and the public.
  9. Review and approve site plans pursuant to this Ordinance.
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10. Determine the existence of any violations of this Ordinance, and cause such notifications, revocation notices, or stop orders to be issued, or initiate such other administrative or legal action as needed, to address such violations.
11. Prepare and submit an annual report to the Village Council and Planning Commission on the administration of this Ordinance, setting forth such information as may be of interest and value in advancing and furthering the purpose of this Ordinance. Such report shall include recommendations concerning the schedule of fees.
12. Delegate any of the aforementioned tasks to any and all assistants that might be provided to him/her by the Village Council. He/She shall personally supervise any and all delegated tasks and shall remain personally responsible for the proper conduct of all tasks conducted under the terms of this Ordinance.
13. Act as principal liaison with any and all planning or other consultants retained by the Village Council for any purposes or tasks pertaining to this Ordinance.

**SECTION 150.204. ORGANIZATION OF THE VILLAGE PLANNING COMMISSION.**

There shall be a Village Planning Commission consisting of five (5) members as provided in Ohio Revised Code Section 713.01. It shall consist of the mayor, one member of Village Council to be elected thereby for the remainder of his/her term as such member of Village Council, and three (3) citizens of the Village to be appointed by the mayor for terms of six (6) years each, except that the term of one of the members of the first commission shall be for a term for four (4) years and one for two (2) years. All such members shall serve without compensation, if they are an elected member of council or a village employee. Non-village elected officials or employees will be compensated \$25 per meeting.

Each member shall serve until his/her successor is appointed/elected and seated. Members shall be removed from office for non-performance of duty, misconduct in office, or other necessitating cause, by the Village Council, after a public hearing has been held on the charges. A copy of the charges shall be delivered to the offending member at least ten (10) days prior to the scheduled public hearing either personally, via registered mail, or by leaving same at his/her address of record; and the member shall be afforded the privilege of responding to the charges at said hearing. Vacancies thus created shall be filled for the unexpired term.

The Planning Commission shall select a chairman and vice-chairman. The term of both shall be one year.

**SECTION 150.205. DUTIES OF THE VILLAGE PLANNING COMMISSION.**

1. Initiate advisable changes or amendments to the text or map of this Ordinance where same will promote the best interest of the public in general through recommendations to the Village Council.
  2. Review all proposed changes or amendments to the text or map of this Ordinance, and make appropriate recommendations to the Village Council.
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3. Conduct an annual review of the fee schedules contained in this Ordinance, and make appropriate recommendations to the Village Council.
4. Carry on a continuous review of the effectiveness and appropriateness of this Ordinance and recommend any and all appropriate amendments or changes to improve the effectiveness and to maintain the currency and appropriateness of said ordinance to the Village Council.
5. The Planning Commission may within the limits of the monies appropriated by the Village Council for the purpose, employ such executives, professional, technical, and other assistants as it deems necessary,

**SECTION 150.206. PROCEEDINGS OF THE VILLAGE PLANNING COMMISSION.**

The Commission shall adopt rules necessary for the conduct of its affairs in keeping with the provisions of this Ordinance Commission meetings shall be held at a regularly scheduled time and place known to the general public. 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 examinations and other official actions, all of which shall become a public record and be immediately filed in the office of the Commission. The presence of three (3) members shall constitute a quorum. The act of a majority of members at a meeting at which a quorum is present shall be the act of the Commission.

**SECTION 150.207. VILLAGE BOARD OF ZONING APPEALS; COMPENSATION AND EXPENSES.**

The Mayor, with the concurrence of Village Council, shall appoint a Village Board of Zoning Appeals of five (5) members who shall be residents of the Village of West Union included in the area zoned. 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/her successor is appointed and qualified. Members shall be removable for the same causes and in the same manner as provided by Section 150.204 of this Ordinance. Vacancies shall be filled by the Mayor and Village Council and shall be for the unexpired term. The members may be allowed their expenses, or such compensation, or both, as the Village Council may approve and provide.

The Board of Zoning Appeals may within the limits of the monies appropriated by the Village Council for the purpose, employ such executives, professional, technical, and other assistants as it deems necessary.

**SECTION 150.208. POWERS OF VILLAGE BOARD OF ZONING APPEALS.**

The Village Board of Zoning Appeals may:

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- I. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a Zoning Administrator in the enforcement of this Ordinance.
2. Authorize, upon appeal, in specific cases, such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.
3. Grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates for specific uses are provided for in the Zoning Ordinance.

**SECTION 150.209. RULES, ORGANIZATION AND MEETINGS OF THE BOARD OF ZONING APPEALS.**

The Village Board of Zoning Appeals shall organize and adopt rules in accordance with the Zoning Ordinance. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board determines. The chairman, or in his absence the acting chairman, may administer oaths, and the Board of Zoning Appeals may compel the attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning Appeals 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 immediately filed in the office of the Village Council and be a public record. The presence of three (3) members shall constitute a quorum.

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the Village affected by any decision of the Zoning Administrator. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning Administrator from whom the appeal is taken and with the Board of Zoning Appeals, a notice of appeal specifying the grounds. The Zoning Administrator from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the actions appealed from was taken.

The Board of Zoning Appeals shall fix a reasonable time for the public hearing of the appeal, give at least ten (10) days' notice in writing to the parties in interest, give notice of such public hearing by one publication in one or more newspapers of general circulation in the county at least ten (10) days before the date of such hearing and decide the appeal within a reasonable time after it is submitted, generally within thirty (30) days. Upon the hearing, any person may appear in person or by attorney.

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**SECTION 150.210. DUTIES OF ZONING ADMINISTRATOR, BOARD OF ZONING APPEALS, LEGISLATIVE AUTHORITY AND COURTS ON MATTERS OF APPEAL.**

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this Ordinance that the duties of the Village 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 the Village Council shall only have the duties of this Ordinance as provided by law, and of establishing a schedule of fees and charges as stated in Section 150.212 of this Ordinance. Nothing in this Ordinance shall be interpreted to prevent any official of the village from appealing a decision of the Board to the courts as provided in Chapters 2505 and 2506 of the Ohio Revised Code. Any such appeal shall be made within thirty (30) days of the Board's written decision.

**SECTION 150.211. VILLAGE COUNCIL.**

The powers and duties of the Village Council pertaining to the Zoning Ordinance are as follows:

1. Elect one of its members to the Planning Commission.
2. Approve the appointments of members of the Board of Zoning Appeals.
3. Initiate or act upon suggested amendments to the Zoning Ordinance text or Official Zoning District Map. Final action upon a suggested zoning amendment shall be undertaken at a public hearing.
4. Override a written recommendation of the Planning Commission on a text or map amendment provided that such legislative action is passed by a majority vote of the Village Council.

**SECTION 150.212. SCHEDULE OF FEES.**

The Village Council shall by Ordinance establish a schedule of fees for zoning permits, certificates of zoning compliance, amendments, appeals, variances, conditional use permits, plan approvals, and other procedures and services pertaining to the administration and enforcement of this Ordinance, after considering the recommendations of the Zoning Administrator with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be posted in the office of the Zoning Administrator, and may only be altered or amended by the Village Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

**I. CERTIFICATES**

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A.	SINGLE FAMILY DWELLINGS	\$ 75.00
B.	TWO FAMILY DWELLINGS	\$150.00
C.	MULTIPLE FAMILY DWELLINGS	\$100.00 PER UNIT
D.	ADDITION TO RESIDENCES	\$ 50.00
E.	ACCESSORY BUILDINGS	\$ 50.00
F.	DETACHED GARAGE	\$ 50.00
G.	COMMERCIAL BUILDINGS	\$200.00 for up to 2,000 sq. ft., plus \$0.25 per sq. ft. over 2,000 sq. ft.
H.	INDUSTRIAL BUILDINGS	\$500.00 for up to 2,000 sq. ft., plus \$0.25 per sq. ft. over 2,000 sq. ft.

**II. OTHER**

A.	ZONING CHANGES	\$150.00
B.	APPEALS	\$100.00
C.	VARIANCE	\$100.00
D.	SPECIAL EXCEPTION USE	\$150.00
E.	ZONING ORDINANCE	\$ 0.25 PER PAGE
F.	ZONING MAP	\$ 10.00

**SECTION 150.213. RESPONSIBILITIES OF VILLAGE FISCAL OFFICER.**

The Village Fiscal Officer shall have the responsibility of maintaining the "official" zoning map; and the "official" text of this Zoning Ordinance. The "official" zoning map shall be maintained on display in the Village Office and be made available to any person during normal business hours.

**ARTICLE IV  
AMENDMENTS, APPEALS AND VARIANCES**

**SECTION 150.300. PROCEDURE FOR AMENDMENTS OR DISTRICT CHANGES.**

This Ordinance may be amended by utilizing the procedures specified in Section 150.301 to Section 150.312, inclusive, of this Ordinance and Section 713.12 of the Ohio Revised Code.

**SECTION 150.301. GENERAL.**

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

**SECTION 150.302. INITIATION OF ZONING AMENDMENTS.**

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

1. By adoption of a motion by the Planning Commission;
2. By adoption of a resolution of a proposed text of an ordinance by the Village Council;
3. By the filing of an application by at least one (1) owner or lessee of property within the area proposed to be changed or affected by said amendment.

**SECTION 150.303. CONTENTS OF APPLICATION FOR ZONING MAP AMENDMENT.**

Applications for amendments to the Official Zoning Map adopted as part of this Ordinance shall contain at least the following information:

1. The name, address, and phone number of applicant;
  2. A statement of the reason(s) for the proposed amendment;
  3. Present use;
  4. Present zoning district;
  5. Proposed use;
  6. Proposed zoning district;
  7. A location map at a reasonable scale showing property lines of the property to be rezoned and all abutting properties and owners' names, thoroughfares, existing and proposed zoning, and such other items as the Zoning Administrator may require;
  8. A list of all property owners and their mailing addresses who are within two hundred feet from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case; as obtained from the County Auditor's office current tax list or the Treasurer's mailing list.
  9. A statement on the ways in which the proposed amendment relates to surrounding land uses and zoning.
  10. A fee as established by Ordinance of the Village Council.
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**SECTION 150.304. CONTENTS OF APPLICATION FOR ZONING TEXT AMENDMENT.**

The following information, as a minimum shall be included in an application for a zoning text amendment:

1. The name, address, and phone number of the applicant;
2. The proposed amendment to text in a form consistent with the existing Zoning Ordinance;
3. A statement of the reason(s) for the proposed amendment;
4. A fee as established by Ordinance of the Village council.

**SECTION 150.305. TRANSMITTAL TO PLANNING COMMISSION.**

Immediately after the adoption of a resolution as provided in Section 150.302 by the Village 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 150.306. PUBLIC HEARING BY PLANNING COMMISSION.**

The Planning Commission shall schedule a public hearing after the adoption of their motion, the transmittal of an ordinance from the village Council, or the filing of an application for zoning amendment. Said hearing shall be no more than forty (40) days from the date of adoption of such motion, transmittal of such resolution, or filing of such application.

**SECTION 150.307. NOTICE OF PUBLIC HEARING IN NEWSPAPER.**

Before holding the public hearing as required in Section 150.306, notice of such hearing shall be given by the Planning Commission by at least one (1) publication in one (1) or more newspapers of general circulation in the Village at least thirty (30) 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 the Village Council for further determination.

**SECTION 150.308. NOTICE TO PROPERTY OWNERS BY PLANNING COMMISSION.**

If the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the Planning Commission by first class mail, at least twenty (20) days before the date of the public hearing, to all owners of property within such area proposed to be rezoned or redistricted to the address of such owners appearing on the list furnished by the applicant in Section 150.303 - 150.307 of this Ordinance, or the County Auditor's current tax list or the Treasurer's mailing list and such other

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list or lists that may be specified by the Village Council. The failure to deliver the notice, 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 150.307.

**SECTION 150.309. RECOMMENDATION PLANNING COMMISSION.**

Within thirty (30) days after the public hearing required by Section 150.306, the Planning Commission shall recommend to the Village 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 be not granted. The written decision of the Planning Commission shall indicate the specific reason(s) upon which the recommendation is based.

**SECTION 150.310. PUBLIC HEARING BY VILLAGE COUNCIL.**

Within thirty (30) days from the receipt of the recommendation of the Planning Commission, the Village Council shall hold a public hearing. Notice of such public hearing in a newspaper of general circulation shall be given by the Village Council as specified in Section 150.307. Notice of such Public hearing to property owners shall be given by the Village Council in the manner specified in Section 150.308.

**SECTION 150.311. ACTION BY VILLAGE COUNCIL.**

Within twenty (20) days after the public hearing required by Section 150.310, the Village Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. In the event the Village Council denies or modifies the recommendation of the Commission, a majority vote of the Village Council is required.

**SECTION 150.312. EFFECTIVE DATE AND REFERENDUM.**

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

The petition shall be filed, accompanied by an appropriate map of the area affected by the zoning proposal, with the Village Council which shall then transmit the petition within two (2) weeks of its receipt to the Board of Elections, which shall determine the sufficiency and validity of the petition. The only responsibility of the Village Council is to transmit said petition to the Board of Elections.

No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the votes cast on the issue is in favor of the amendment. Upon

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certification by the Board of Elections that the amendment has been approved by the voters it shall take immediate effect.

**SECTION 150.313. APPEALS.**

Appeals to the Board of Zoning Appeals 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 the Village affected by any decision of the Zoning Administrator. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning Administrator and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

**SECTION 150.314. STAY OF PROCEEDINGS.**

An appeal stays all proceedings in furtherance of the actions appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him/her that by reason of facts stated in the application, a stay would, in his/her 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 a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken on due cause shown.

**SECTION 150.315. VARIANCES.**

The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, 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. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Ordinance would result in unnecessary hardship or, practical difficulties.

**SECTION 150.316. APPLICATIONS AND STANDARDS FOR VARIANCES.**

Except as otherwise permitted in this Ordinance, no variance in the strict application of the provisions of this Ordinance shall be granted by the Board of Zoning Appeals unless the Board shall find that the written application for the requested variance contains all of the following requirements:

- I Name, address, and telephone number of applicant(s);
  2. Legal description of property;
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- 3 Description or nature of variance requested;
  4. A fee as established by Ordinance;
  5. Narrative statements establishing and substantiating that the variance conforms to the following standards:
    - a. The granting of the variance shall be in accord with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located, and shall not be injurious to the area or otherwise detrimental to the public welfare.
    - b. The granting of the variance will not permit the establishment of any use which is not otherwise permitted in the district.
    - c. There must exist special circumstances or conditions, fully described in the findings, applicable to the land or buildings for which the variance is sought, which are peculiar to such land or buildings and do not apply generally to land or buildings in the area, and which are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building. Mere loss in value shall not justify a variance; there must be deprivation of beneficial use of land.
    - d. There must be proof of hardship created by the strict application of this Ordinance. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this ordinance; it must be suffered directly by the property in question; and evidence of variances granted under similar circumstances need not be considered.
    - e. The granting of the variance is necessary for the reasonable use of the land or building and the variance as granted is the minimum variance that will accomplish this purpose.
    - f. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values of the adjacent area.
    - g. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
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### **SECTION 150.317. ADDITIONAL CONDITIONS AND SAFEGUARDS.**

The Board may further prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulations or provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Ordinance.

### **SECTION 150.318. TERMS OF VARIANCES.**

No order of the Zoning Board of Appeals granting a variance shall be valid for a period longer than twelve (12) months from the date of such order unless the building permit or zoning approval is obtained within such period, and the erection or alteration of a building is started or the use is commenced within such period.

### **SECTION 150.319. AUTHORIZED VARIANCES.**

Variations from the regulations of this Ordinance shall not be granted unless the Board makes specific findings of fact, based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed in Section 150.316, and Section 150.317, if applicable, have been met by the applicant. Variations may be granted as guided by the following:

- To permit any yard or setback less than the yard or setback required by the applicable regulations.
  - To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient width of the lot or lots, but generally the respective width of the lot or lots, should not be less than eighty (80) percent of the required width.
  - To permit the same off-street parking facility to qualify as required facilities for two or more uses provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.
  - To reduce the applicable off-street parking or loading facilities required, but generally by not more than thirty (30) percent of the required facilities.
  - To allow for the deferment of required parking facilities for a reasonable period of time, such period of time to be specified in the variance.
  - To increase the maximum distance that required parking spaces are permitted to be located from the use served, but generally not more than forty (40) percent.
  - To increase the maximum allowable size or area of signs on a lot, but generally by not more than twenty-five (25) percent.
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- To increase the maximum gross floor area of any use so limited by the applicable regulations, but generally not more than twenty-five (25) percent.

### **SECTION 150.320. REGULATION OF CONDITIONAL USES.**

In recent years, the characteristics and impact of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, it is recognized that this Ordinance should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, public facilities requirements, and traffic generation. Accordingly, conditional use permits shall conform to the procedures and requirements of Section 150.321 to 150.325 of this Ordinance.

### **SECTION 150.321. CONTENTS OF CONDITIONAL USE PERMIT APPLICATION.**

Any owner, or agent thereof, of property for which a conditional use is proposed shall make an application for a conditional use permit by filing it with the Zoning Administrator, who shall, within seven (7) days, transmit it to the Board of Zoning Appeals. Such application at a minimum shall contain the following information:

- I. Name, address, and telephone number of the applicant;
  2. Legal description of the property;
  3. Zoning district;
  4. Description of existing use;
  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 areas, streets and traffic accesses, open spaces, refuse and service areas, utilities, signs, yards, landscaping features, and such other information as the Board may require;
  7. A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent properties to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes, and vibration;
  8. A list containing the names and mailing addresses of all owners of property adjacent to property in question;
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9. A fee as established by Ordinance; and
10. A narrative addressing each of the applicable criteria contained in Section 150.322.

**SECTION 150.322. GENERAL STANDARDS FOR ALL CONDITIONAL USES.**

In considering an application for a conditional use the Board shall give due regard to the nature and condition of all adjacent uses and structures; and in authorizing a conditional use the Board may impose such requirements and conditions with respect to location, construction, maintenance and operation in addition to those expressly stipulated in this Ordinance for the particular conditional use as the Board may deem necessary for the protection of adjacent properties and the public interest.

In addition to the above and to the specific requirements for conditionally permitted uses as specified elsewhere in this Ordinance, the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- I. Is in fact a conditional use as established under the provisions of this Ordinance and appears within for the zoning district involved;
  2. Will be in accordance with the general objectives, or with any specific objective, of the village's Zoning Ordinance;
  3. 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;
  4. Will not be hazardous or disturbing to existing or planned future neighboring uses;
  5. Will 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;
  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 not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general
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welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors; and;

8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

**SECTION 150.323. ACTION ON CONDITIONAL USE APPLICATION.**

Within twenty (20) days after the date of the public hearing required in Section 150.326, the Board shall take one of the following actions:

- I. Approve issuance of the conditional use permit by making an affirmative finding in writing that the proposed conditional use is to be located in a district wherein such use may be conditionally permitted, that all conditions for approval of such use in such district have been met, and that such use will neither result in significant negative impact upon nor conflict with surrounding uses. Such written finding may also prescribe supplementary conditions and safeguards as specified in Section 150.317. Upon making an affirmative finding, the Board shall direct the Zoning Administrator to issue a conditional use permit for such use which shall list all conditions and safeguards specified by the Board for approval.
2. Make a written finding that the application is deficient in information or is in need of modification and is being returned to the applicant. Such finding shall specify the information and/or modifications which are deemed necessary.
3. Make a written finding that the application is denied, such finding specifying the reason(s) for disapproval.

**SECTION 150.324. VIOLATION OF CONDITIONS.**

Any violation of conditions and safeguards, when made a part of the terms under which the conditional use is granted shall be deemed a punishable violation of this Ordinance.

**SECTION 150.325. EXPIRATION OF CONDITIONAL USE PERMIT.**

A conditional use permit shall be deemed to authorize only one particular conditional use, and said permit shall automatically expire if such conditionally permitted use has not been instituted or utilized within one (1) year of the date that the Board approved the conditional use, or if for any reason such use shall be discontinued for more than two (2) years.

**SECTION 150.326. PUBLIC HEARING BY THE BOARD OF ZONING APPEALS.**

The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after the receipt of an application for an appeal, variance, or conditional use from the Zoning Administrator or an applicant.

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**SECTION 150.327. NOTICE OF PUBLIC HEARING IN NEWSPAPER.**

Before conducting the public hearing required in Section 150.326, notice of such hearing shall be given in one or more newspapers of general circulation in the Village at least ten (10) 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 action.

**SECTION 150.328. NOTICE TO PARTIES IN INTEREST.**

Before conducting the public hearing required in Section 150,326, written notice of such hearing shall be mailed by first class mail, at least ten (10) days before the day of the hearing, to all parties in interest including but not limited to those property owners immediately adjacent to the subject property.

The notice shall contain the same information as required of notices published in newspapers as specified in Section 150.327.

**SECTION 150.329. ACTION BY BOARD OF ZONING APPEALS.**

Within thirty (30) days after the public hearing required in Section 150.326, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 150.317, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding in writing 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. Appeals from Board decisions shall be made in the manner specified in Section 150.210.

**ARTICLE V  
GENERAL PROVISIONS**

**SECTION 150.400. COMPLIANCE.**

No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used which does not comply with all the district regulations established by this ordinance for the district in which the building or land is located.

**SECTION 150.401. TRAILERS.**

In any district, a car camper, truck camper trailer, RV, motor home, boat, or utility trailer must be parked or stored behind the front building line if there is a paved driveway or similar surface in order to do so, and must not interfere with visibility, and no habitation can be maintained or business conducted therein while such trailer is so parked or stored. A property owner is not required to install a paved driveway or similar surface in order to comply with this section.

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**SECTION 150.402. YARD ENCROACHMENTS.**

The minimum yards and other open spaces, including the density of population provisions contained in this ordinance for each and every building existing on the effective date of this ordinance or for any building thereafter erected or structurally altered, shall not be encroached upon or considered as yard or open space requirements or density of population requirements for any other building.

**SECTION 150.403. LOT REQUIREMENT.**

Every building erected or structurally altered shall be located on a lot which shall have a minimum of twenty feet of frontage on a dedicated public street.

**SECTION 150.404. LANDFILLS.**

Privately owned or operated landfills and dumps are prohibited in the Village.

**SECTION 150.405. AGRICULTURAL USES.**

Except as specifically provided herein, nothing contained in this Ordinance shall prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located and a zoning certificate shall not be required for any such use, building or structure, except that any building constructed for agricultural purposes shall be not less than one hundred (100) feet from any lot line.

**SECTION 150.406. EXISTING VALID PERMITS.**

Nothing contained in this ordinance shall require any change in the plans, construction, size or designated use of a building for which a valid permit has been issued or construction began after lawful approval given before the effective date of this ordinance; provided, however, construction under such permit or approval shall have started within six (6) months and the entire building completed within one (1) year after the effective date of this ordinance.

**SECTION 150.407. CARPORTS.**

For the purposes of this ordinance, a carport is considered the same as an attached garage.

**SECTION 150.408. CEMETERIES.**

Any cemetery established after the effective date of this ordinance must contain no less than twenty (20) acres. Grounds must be landscaped so as to be an asset to the district in which it is located.

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**SECTION 150.409. ADDITIONAL BUILDING HEIGHT RESTRICTIONS.**

Public or public service buildings, hospitals (except as otherwise provided), institutions, or schools, when permitted in a District, may be erected to a height not exceeding sixty (60) feet, and churches and temples may be erected to a height not exceeding seventy-five (75) feet if the building is set back from each required yard line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the District in which the building is built. This height restriction applies only to usable space as provided for in Section 150.410.

**SECTION 150.410. ADDITIONAL HEIGHT RESTRICTIONS.**

Church spires, domes, flagpoles, chimneys, cooling towers, elevator bulkheads, fire towers, belfries, wind turbines, monuments, stacks, deITicks, conveyors, tanks, antennae (other than those used for wireless communication systems as defined in Article IX), water towers, silos and farm buildings may be erected to any lawful and safe height.

**SECTION 150.411. BUILDINGS ON LOTS.**

For the purpose of the yard requirements, a two-family or multiple family dwelling shall be considered as one building occupying a single lot.

**SECTION 150.412. NON-CONFORMING LOT REDUCTIONS.**

No lot on which there is located a non-conforming use shall be reduced in area or width so as not to conform with the lot area per family and lot width requirements for the district in which such lot is located, nor shall any existing yard be reduced so as not to conform with the yard requirements thereof.

**SECTION 150.413. MARIJUANA PROHIBITION.**

Marijuana cultivators, processors and retail dispensaries are required to get a zoning permit prior to beginning operations.

**ARTICLE VI  
ZONING DISTRICTS**

**SECTION 150.500. A-1 AGRICULTURAL/INSTITUTIONAL DISTRICT.**

(A) **PERMITTED USES:** Within the "A-1" Agricultural/Institutional District no building or other structure or land shall be used, and no building or other structure shall be built, altered or erected to be used for any purpose other than that of:

- I. Agriculture, provided any buildings or enclosures for animals or fowls shall be at least 50 feet from every property line.
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2. Cemeteries, including mausoleums, provided that any mausoleum shall be at least 50 feet from every property line and provided further that any new cemetery shall contain an area of 20 acres or more.
  3. Church, Sunday School and other places of worship.
  4. Country or private clubs, swimming and tennis clubs, fitness centers; provided that any structures, except fences, and any parking areas necessary to the operation shall be at least fifty (50) feet from every property line.
  5. Community fire house.
  6. Golf course, including such buildings and uses necessary for its operation, provided the site on which the course is located contain at least fifty (50) acres.
  7. Greenhouses, provided any exterior storage or refuse or supplies and the heating plant shall be at least 50 feet from every property line.
  8. Hospitals and institutions of an educational, religious, charitable, philanthropic nature. Clinics, Dentists, Veterinarians, daycare facilities, nursing homes, funeral homes, radio stations and other public service or natural traffic generators.
  9. Public and private forests and wild life reservations or similar conservation projects, including the usual buildings therefor.
  10. Publicly owned or operated properties including parks, libraries, museums, government buildings, playgrounds, and community centers. This includes Human Society, dog pounds, homeless shelters,
  11. Riding stables, animal hospitals and stables or kennels for the board of animals provided that such building shall be located upon a site of five acres or more and further provided that buildings and enclosures for animals shall be at least 200 feet from any property line.
  12. Schools, public and private, having a curriculum equivalent to that ordinarily given in public elementary and high schools, provided no rooms are regularly used for housekeeping or sleeping rooms. Colleges, training centers and other educational institutions.
  13. Single family dwellings.
  14. Home occupations.
  15. Accessory buildings and uses customarily incident to any of the above uses.
  16. Roadside stands, offering for sale only agricultural products which are produced
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upon the premises.

**(B) AREA, YARD AND HEIGHT RESTRICTIONS.**

1. Area per dwelling unit and lot dimensions: The minimum land area or lot size per dwelling unit shall be forty three thousand five hundred sixty (43,560) square feet and the minimum width of the lot at the front building line shall be one hundred fifty (150) feet.
2. Front Yard: There shall be a front yard having not depth of not less than seventy five (75) feet from the public right of way.
3. Side Yard: There shall be two side yards each having a width of not less than twenty five (25) feet. On a comer lot the front yard setback shall be observed on all sides of the lot bordering on a public street.
4. If an existing structure is destroyed it may be reconstructed on the identical location providing a similar structure and use.

**(C) PRIVATE GARAGES AND OTHER ACCESSORY BUILDINGS AND USES:**

1. No detached garage or other accessory building, vehicle or use, shall be placed closer to a rear property line than six (6) feet, or closer to a side property line than five (5) feet, and for each foot the height of such a building exceeds fifteen (15) feet, the offset from the rear and side property lines shall be increased by one (1) foot. No detached garage or other accessory building or vehicle shall be placed closer to a front building line than seventy five (75) feet.
2. Any accessory in-ground swimming pool, having a depth of eighteen (18) inches or more shall be so walled or fenced so as to prevent uncontrolled access from the street or adjacent properties. Said fence or wall shall be not less than four (4) feet in height and maintained in good condition.

**SECTION 150.501. "R-1" RESIDENCE DISTRICT.**

**(A) PERMITTED USES:** Within the "R-1" Single Family Residence District no building or other structure or land shall be used, and no building or other structure shall be built, altered or erected to be used for any purpose other than that of:

- (I) Single Family dwelling.
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- (2) Public or private schools offering general education courses.
- (3) Home occupations.
- (4) Funeral homes.
- (5) Accessory uses or structures incidental to any of the above permitted uses, including but not limited to non-commercial greenhouses, private garages, swimming pools, and signs advertising the sale, rent, or lease of the building, furnishings, or land on which it is located.

**(B) CONDITIONAL USES:** The following uses are special exceptions and require written approval of the Board of Zoning Appeals:

- (1) Hospitals for human care.
- (2) The taking of boarders or tourists or the leasing of rooms by the family resident on the premises.
- (3) Philanthropic institutions.
- (4) Churches and places of public worship.
- (5) Two-Family (Duplex) dwellings.

**(C) AREA, YARD, AND HEIGHT RESTRICTIONS.**

- (1) Area per Dwelling Unit and Lot Dimensions As To All Future Use After Passage of This Ordinance: The minimum land area or lot size per dwelling unit shall be Five Thousand (5,000) square feet and the minimum width of the lot at the front of the building line shall be fifty (50) feet.
  - (2) Front Yard: No building or part of a building other than steps, eaves, and cornices and similar fixtures shall extend nearer the front street right of way than twenty (20) feet.
  - (3) Rear Yard. There shall be a rear yard depth of not less than twenty-five (25) feet.
  - (4) Side Yards: There shall be two side yards each having a width of not less than fifteen (10) feet. On a corner lot, the front yard setback shall be observed on all sides of the lot bordering a public street.
  - (5) Height Restrictions: No dwelling shall exceed two and one half (2-1/2) stories or thirty (30) feet in height, except as permitted in Section 150.410.
  - (6) Home Minimum Square Footage: Seven-Hundred-Sixty (760) square feet.
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**(D) PRIVATE GARAGES AND OTHER ACCESSORY BUILDINGS AND USES.**

- (1) No detached private garage or other accessory building shall be placed closer to a rear property line than twelve (12) feet, or closer to a side property line than six (6) feet, and for each foot of height of such a building that exceeds fifteen (15) feet, the offset from the rear and the side property lines shall be increased by one (1) foot.
- (2) Any accessory in-ground swimming pool, having a depth of eighteen (18) inches or more, shall be so walled or fenced so as to prevent uncontrolled access from the street or adjacent properties. Said fence or wall shall be not less than four (4) feet in height and maintained in good condition.
- (3) The keeping of animals and fowls as pets, provided, however, that any building or enclosure for such animals or fowls, other than for not more than two adult dogs or cats, shall be at least 50 feet from every property line and in accordance with the Ohio Revised Code.

**SECTION 150.502. "R-2" SINGLE FAMILY, TWO-FAMILY RESIDENCE AND MIXED-USE DISTRICT.**

**(A) PERMITTED USES:** Within the "R-2" family and two-family residence district, no building or structure or land shall be built, altered or erected to be used for any purpose other than that of:

- (1) A use permitted in the "R-1" Single Family Residence District
  - (2) Two-Family (Duplex) dwellings, but shall not include sleeping rooms.
  - (3) Apartment buildings and Apartment Complexes
  - (4) Homes with small businesses where customers do not walk in for retail services.
  - (5) Small barber shops and hair salons.
- (1) A use permitted in the "R-2" Multi-Family Residence District.
  - (2) Shops offering personal services such as barbers and beauty parlors.
  - (3) Drugs stores.
  - (4) Hardware stores.
  - (5) Shops offering at retail, foods and food products such as fruit markets, meat markets, grocery stores, and bakeries.
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- (6) Shops offering the repair services, such as small appliance, heating/air services and shoe repair.
- (7) Offices and office buildings.
- (8) Bed and Breakfast Facility, but shall not include Sleeping Rooms.
- (9) Self-Service Laundry and Dry-Cleaning establishments.
- (10) Drive-in restaurants and other establishments catering mainly to drive-in trade, where on-site parking must be provided.
- (11) Wholesale establishments.
- (12) Signs no larger than thirty (30) square foot freestanding and projected outward and not more than one (1) per establishment, advertising a business or activity conducted on the premises.
- (13) Any necessary use or building customarily incidental to the above permitted uses.

Any use which in the opinion of the Board of Zoning Appeals to be the same general character as the above permitted uses.

**(B) CONDITIONAL USES:** The following uses are special exceptions and require approval of the Board of Zoning Appeals:

- (1) The conditional uses permitted under the "R-1" Single Family Residence District.
  - (2) Multi-Family (3 units and above) dwellings.
  - (3) Nursery Schools and Day Care Centers provided there is established and maintained in connection therewith one or more completely securely fenced play lots.
  - (4) Nursing Homes for the care of the aged.
  - (5) Clubhouses or lodges of social organization not conducted for profit and which is not operated by or in connection with a public tavern, cafe or other public place.
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**(C) AREA, YARD, AND HEIGHT RESTRICTIONS.**

- (1) Area Per Dwelling Unit and Lot Dimensions: The minimum land area or lot size for a single family dwelling shall be eight thousand (8,000) square feet and the minimum width of the lot at the front of the building line shall be fifty (50) feet. The minimum land area or lot size for a two-family dwelling shall be ten thousand (10,000) square feet and the minimum width of the lot at the front buildings line shall be fifty (50) feet. The land area or lot size for a multi-family dwelling shall be ten thousand (10,000) square feet for the first two (2) dwelling units and an additional one thousand (1,000) square feet for each additional dwelling unit. The minimum width of a lot on which a multi-family unit is located shall be fifty (50) feet at the front building line for the first two (2) dwelling units and an additional ten (10) feet for each additional dwelling unit.
- (2) Front Yard: No building or part of a building other than steps, eaves, or cornices and similar fixtures shall extend nearer to the front street right-of-way line than twenty-five (25) feet.
- (3) Rear Yard: There shall be a rear yard with a depth of not less than twenty-five (25) feet.
- (4) Side Yards: There shall be two side yards each having a width of not less than ten (10) feet. Multi-family dwellings shall have an additional one foot on each side yard for each dwelling unit over two (2) and up to and including twenty-two (22) units or twenty-five (25) feet after which no additional side yard will be required. On a corner lot, the front yard setback shall be observed on all sides on the lot bordering on a public street.
- (5) Height Restrictions: No dwelling shall exceed three (3) stories or forty-five (45) feet in height, except as permitted under Section 150,410.

**(D) PRIVATE GARAGES AND OTHER ACCESSORY BUILDINGS AND USES:**

- (1) Permitted garages, vehicles, and other accessory buildings and uses shall be governed by the same restrictions as in the "R-1" Single Family Residence District.
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**SECTION 150.505. "CBD" CENTRAL BUSINESS DISTRICT.**

**(A) PERMITTED USES:** Within the "CBD" Central Business District no building or structure or land shall be used, and no building or other structure shall be built, altered or erected to be used for any purpose other than that of:

- (1) A use permitted in the "M-1" Mixed Use District.
  - (2) Automobile Service Station.
  - (3) Any Retail Business or Service.
  - (4) Restaurants, Hotels and Motels.
  - (5) Public Garages and Auto Repair.
  - (6) Financial Establishments.
  - (7) Government Buildings.
  - (8) Pharmacies.
  - (9) Office Buildings.
  - (10) Retail Shops.
  - (11) Bed & Breakfast
  - (12) Gas Station
  - (13) Auto repair & Gas Stations
  - (14) Attached signs provided they do not project more than forty-two (42) inches from the building and the bottom of the sign shall not be less than twelve (12) feet above the finished grade of any sidewalk. Small signs of not more than two (2) square feet in area and extending not more than two (2) feet beyond the building to which they are attached may be placed at any desired level above the finished sidewalk. Nothing contained in this subsection 150.505(A)(7) shall be construed to permit a sign which would otherwise be prohibited by ordinance regulating signage within the Village of West Union Historic District.
  - (15) Trade and Business Schools, schools of music or dance, and recreational establishments operated entirely within an enclosed building.
  - (16) Any use which in the opinion of the Board of Zoning Appeals to be the same general character as the above permitted uses.
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**(B) CONDITIONAL USES:** The following uses are special exceptions and require written approval of the Board of Zoning Appeals:

- (o) Warehouse and Storage Plants.

**(C) AREA, YARD AND HEIGHT RESTRICTIONS.**

(!)(a) Area Per Dwelling Unit and Lot Dimensions: The minimum land area or lot size per dwelling unit and the minimum width of the lot at the building lines shall be the same as the minimum requirements for dwellings in the "R-2" Multi-Family Residence District.

(1)(B) Area and Lot Dimensions for All Other Permitted Uses: There shall be no minimum land area or minimum lot width requirements for any other permitted use in the "CBD" Central Business District.

(2) Front Yard: There shall be no minimum front yard required for any permitted building (including dwellings) in the "CBD" Central Business District.

(3) Rear Yard:

(a) For dwellings there shall be a rear yard with a depth of not less than twenty-five (25) feet.

(b) For other permitted uses in the "CBD" Central Business District there shall be no minimum rear yard required except when the lot on which a permitted use is located abuts at the rear lot line on a Residence District, in which case a rear yard having a depth of not less than fifteen (15) feet shall be required.

(4) Side Yards:

(a) The side yard requirements for dwelling are the same as those for dwellings in the "R-2" Multi-Family Residence District.

(b) For other permitted uses in the "CBD" Central Business District there shall be no minimum side yard requirements except on a side yard which abuts a Residence District where a side yard of not less than ten (10) feet shall be required.

(5) Height Restrictions: No building or structure shall exceed three stories or forty-five (45) feet in height, except as permitted under Section 150.410.

**(D) PRIVATE GARAGES AND OTHER ACCESSORY BUILDING AND USES:**

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- (1) Except where they abut upon a Residence District there shall be no side, rear or front yard set-back requirements for accessory buildings, uses, and structures permitted in the "CBD" Central Business District. When they abut upon a Residence District such accessory uses and buildings shall be governed by the same restrictions as set forth in Section 150.50I.

**SECTION 150.506. "B-2" HIGHWAY BUSINESS DISTRICT.**

**(A) PERMITTED USES:** Within the "B-2" Highway business district, no building or other structure or land shall be used or no building or other structure shall be built, altered or erected to be used for any purpose other than that of:

- (1) Permitted uses within the "M-1" Mixed Use District and the "CBD" Central Business District.
- (2) Automobile, truck, trailer and farm implement establishments, for display, hire, sale and major repair, including sales lots.
- (3) Trade or business schools.
- (4) Carpenter, paper hanging, electrical, plumbing, heating, printing, publishing, or lithography shops, funeral home or mortuary, furniture upholstery; provided that any use shall be conducted within a completely enclosed building.
- (5) Hotels and motels. Large retailers, car lots, gas stations, hospitals, urgent care centers, financial institutions, gas stations, animal hospitals, storage facilities, car wash business, tobacco shops, small retailers.
- (6) Commercial baseball fields, swimming pools, golf driving ranges, or similar open air recreational uses and facilities, if located at least 200 feet from any "R" district.
- (7) Any other retail business or service establishment which is determined by the board to be of the same general character as the above permitted retail business or service uses.

**(B) GENERAL PROVISIONS.**

- (1) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water carried waste.
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**{C) AREA, YARD AND HEIGHT RESTRICTIONS:**

- (1) Area and lot dimensions for any permitted uses: There shall be no minimum land area or minimum lot width requirements for any other permitted use in the "B-2" Highway Business District.
- (2) Front Yard: a front yard of twenty-five (25) feet from the public right of way line.
- (3) Side Yards: there shall be 2 side yards having a width of not less than ten feet. On a corner lot, the front yard setback shall be observed on all sides of the lot bordering on a public street.
- (4) Rear Yards: There shall be a rear yard with a depth of not less than ten feet except when such lot abuts at the rear lot line on a residence district in which case a rear yard having a depth of not less than twenty-five (25) feet shall be required.
- (5) If an existing structure is destroyed it may be reconstructed on the identical location providing a similar structure and use.

**SECTION 150.507. "I" INDUSTRIAL DISTRICT.**

**(A) PERMITTED USES:** Within the "I" Industrial District, no building or other structure or land shall be used, and no building or structure shall be built, altered or erected to be used for any purpose other than that of:

- (1) Any use permitted in the "B-2 Highway Business District except dwellings, hospitals, rest homes and schools.
  - (2) Assembly, building materials sales and storage, cleaning, manufacturing, mini-warehouses, motor vehicle maintenance and repair, packing and shipping, painting and engraving, processing and treatment facilities, research and development, storage structures, warehousing and wholesale and uses similar to the above.
  - (3) Any industrial or manufacturing activity which can be shown not to emit noise, smoke, dust, vibration, heat, bright light, odor or other obnoxious effects beyond the limit of its lot.
  - (4) Attached and free-standing signs provided the signs are not located any closer than ten (10) feet to any street right of way or closer than three (3) feet to any side lot line.
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**(B) CONDITIONAL USES:** The following uses are special exceptions and require written approval of the Board of Zoning Appeals.

- (1) Storage of chemicals, fuels, explosives and fireworks.
- (2) Central mixing plants for cement, mortar, plaster or paving materials.
- (3) Junk yards, forge plants, foundries and metal fabrication plants.
- (4) Smelting plants; plants for the manufacture of acetylene, acid, alcohol, alcoholic beverages, ammonia, bleaching powder, chemicals, brick, pottery, terra-cotta tile, candles, disinfectants, dye-stuff, fertilizer and petroleum products.

**(C) AREA, YARD AND HEIGHT RESTRICTIONS.**

- (1) There shall be no minimum land area or minimum lot width requirements for any permitted use in the "I" Industrial District.
  - (2) Front Yard:
    - (a) No industrial, manufacturing, warehouse or storage building or structure or any part of such a building other than steps, eaves, cornices, fire escapes and similar fixtures shall extend nearer to the front street right-of-way than one hundred (100) feet.
    - (b) No other building or use permitted in the "I" Industrial District shall be nearer to the front street right-of-way than forty (40) feet.
  - (3) Rear Yard: There shall be a rear yard with a depth of not less than twenty (20) feet, except that the rear yard required in the "I" Industrial District shall not be less than fifty (50) feet at any place where an Industrial lot abuts any "R" District.
  - (4) Side Yards:
    - (a) Industrial, manufacturing, warehouses and/or storage building, structures or uses shall have two (2) side yards each having a width of not less than fifty (50) feet.
    - (b) Other permitted buildings, structures, and uses in the "I" Industrial District shall have two (2) side yards each having a width of not less than twenty (20) feet.
  - (5) Height Restrictions: No building or structure, except as provided in Section 150.410, shall exceed six (6) stories or ninety (90) feet in height.
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**(D) ACCESSORY BUILDING USES.**

- (1) Accessory buildings and uses permitted in the "I" Industrial District shall comply with the same front, side, rear, yard and height requirements as are specified for the principal building structure, or use in the lot for which the accessory building or use is located.

**ARTICLE VII  
OFF-STREET PARKING AND LOADING REGULATIONS**

**SECTION 150.600. GENERAL PARKING REQUIREMENTS.**

In all districts, at any time any building, structure or use of land is erected, enlarged, increased in capacity, there shall be provided for every use off-street parking spaces for automobiles in accordance with the provisions of this Article. A parking plan shall be required for all uses except for single or two-family residential uses. The parking plan shall be submitted to the Zoning Administrator as a part of the application for a zoning permit. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage and construction plans, and boundary walls, fences and a screening plan as appropriate. Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged in floor area, number of dwelling units, seating capacity, or otherwise to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Ordinance is enlarged to the extent of fifty (50) percent or more in floor area or in area used, such building or use shall then and thereafter comply with the parking requirements set forth herein.

**SECTION 150.601. OFF-STREET PARKING DESIGN STANDARDS.**

All off-street facilities including entrances, exits, maneuvering areas, and parking spaces shall be in accordance with the following standards and specifications:

1. Parking Space Dimensions: Each off-street parking space shall have an area of not less than one hundred sixty-two (162) square feet exclusive of access drives or aisles, and shall be of usable shape and condition.
  2. Access: There shall be adequate provision for ingress and egress to all parking spaces. Where the lot or parking spaces do not provide direct access to a public street or alley, an access drive shall be provided, with a dedicated easement of access, as follows:
    - (a) For all other residential uses and all other uses, the access drive shall be a minimum of eighteen (18) feet in width.
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- (b) All parking spaces shall have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or into a public street or alley shall be traveling in a forward motion.
- 3. Setbacks: The location of off-street parking facilities for more than five (5) vehicles may be located in required yards as specified elsewhere in this Ordinance. In no case, however, shall the parking area be located closer than five (5) feet to any street, alley, right-of-way or Residential District.
- 4. Drainage: All parking spaces, driveways, aisles, and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways, or onto the public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system in conformance with the applicable storm water retention regulations.
- 5. Barriers: Whenever a parking lot extends to a property line, fencing, wheel stops, curbs, or other suitable barriers shall be provided in order to prevent any part of a parked vehicle from extending beyond the property line.
- 6. Visibility: Access or driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible for a reasonable distance by any pedestrian or motorist approaching the access or driveway from a public or private street or alley.
- 7. Parking: All parking areas for ten (10) or more spaces shall be marked with paint lines, curb stones, or in some other manner approved by the Zoning Administrator, and shall be maintained in a clearly visible condition.
- 8. Signs: Where necessary due to multiple curb cuts, the entrances, exits, and the intended circulation pattern of the parking area shall be clearly marked.
- 9. Lighting: Any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property.

**SECTION 150.602. PARKING OF DISABLED VEHICLES.**

The parking of a disabled vehicle as defined in this Ordinance within a Residential District for a period of more than thirty (30) consecutive days shall be prohibited, except that such vehicle may be stored in an enclosed garage or other accessory building.

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**SECTION 150.603. OBSTRUCTION TO VISION AT STREET INTERSECTIONS PROHIBITED.**

On a corner lot, in all districts, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in an area bounded by the street lines of such corner lots and a line joining such points along said street lines fifty (50) feet from the point of the intersection. This section shall be enforced based on the conditions present as determined by the Zoning Administrator.

**SECTION 150.604. FENCES, WALLS AND HEDGES.**

Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard provided, however, that no fence, wall, or hedge along the sides or front edge of any front yard shall be over three (3) feet in height on corner lots and eight (8) feet on interior lots.

**SECTION 150.605. OFF-STREET AUTOMOBILE PARKING.**

Permanent off-street automobile parking, storage, or standing space shall be provided as set forth below at the time of the erection of any building or structure, at the time any principle building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, or before conversion from one zoning use or occupancy to another. Such space shall be provided with vehicular access to a street or alley. This space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. No required front yard or portion thereof in any Residential District shall be utilized to provide parking space required in this Ordinance.

At least the following minimum parking space requirements shall be provided and for the purpose of one computing the number of parking spaces, the parking space for every 250 square feet of building per parking space shall be used:

- (1) Amusement Facilities: One (1) parking space for every five (5) customers computed on the basis of maximum servicing capacity at any one time plus one (1) additional space for every two (2) persons regularly employed on the premises.
  - (2) Churches, Auditorium, Stadium, Gymnasium: One (1) space for every five (5) seats occupied at maximum capacity.
  - (3) Retail Business: Parking or storage for all vehicles used directly in the conduct of such business plus four (4) parking spaces for the first one thousand (1,000) square feet of total floor area one (1) additional space for every additional two hundred (200) square feet of floor area.
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- (4) Service Establishments Offering Both Personal and Repair Service, etc.: Parking or storage for all vehicles used directly in the conduct of the business plus two (2) parking spaces for each person regularly employed on the premises.
- (5) Residences: Two (2) parking spaces for each dwelling unit or family unit.
- (6) Industrial Plants and Facilities: Parking or storage space for all vehicles used directly in the conduct of such industrial use plus one (1) parking space for every three (3) employees on the premises at maximum employment on a single shift.
- (7) Offices: One (1) parking space for every two hundred (200) square feet of office space.
- (8) Wholesale Businesses and warehouses: Parking or storage for all vehicles used directly in the conduct of such business plus two (2) parking spaces for each person employed on the premises at maximum seasonal employment.

## **ARTICLE VIII NON-CONFORMITIES**

### **SECTION 150.700, INTENT.**

Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of non-conforming buildings, land and uses are established in order to achieve, among others, the following purposes:

- (A) To permit their continuance but control non-conformity so as to minimize any adverse effect on the adjoining properties and development;
- (B) To require their permanent discontinuance if not operated for certain periods of time; and
- (C) To require conformity if it is discontinued, to bring about eventual conformity in accordance with the objectives of the Village Land Use Plan, and Zoning Ordinance of the Village.

### **SECTION 150.701, LAWFUL NON-CONFORMANCE.**

The lawful use of any dwelling, building or structure and of any land or premises as existing and lawful at the time of enacting this Zoning Ordinance, may be continued, although

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such use does not conform to the provisions of this Ordinance. The completion, restoration, reconstruction, extension or substitution of non-conforming uses shall be subject to the provisions and conditions as set forth in this Article.

**SECTION 150.702. USES UNDER CONDITIONAL USE PROVISIONS NOT NON-CONFORMING USES.**

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

**SECTION 150.703. INCOMPATIBILITY OF NON-CONFORMITIES.**

Non-conformities are declared by this Ordinance to be incompatible with permitted uses in the districts in which such uses are located. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this Ordinance or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

**SECTION 150.704. AVOIDANCE OF UNDUE HARDSHIP.**

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently.

**SECTION 150.705. CERTIFICATES FOR NON-CONFORMING USES.**

The Zoning Administrator may upon his own initiative, or shall upon the request of any owner, issue a certificate for any lot, structure, use of land, use of structure, or use of land and structure in combination, that certifies that the lot, structure or use is a valid non-conforming use. The certificate shall specify the reason why the use is a non-conforming use, including a description of the extent and kind of use made of the property in question, the portion of the structure or land used for the non-conforming use, and the extent that dimensions are non-conforming. The purpose of this section is to protect the owners of lands or structures that are or become non-conforming. No fee shall be charged for such a certificate. One copy of the certificate shall be returned to the owner and one copy shall be retained by the Zoning Administrator, who shall maintain as a public record a file of all such certificates.

**SECTION 150.706. SUBSTITUTION OF NON-CONFORMING USES.**

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So long as no structural alterations are made, except as required by enforcement of other codes or ordinances, any non-conforming use may, upon appeal to and approval by the Board of Zoning Appeals, be changed to another non-conforming use of the same classification or of a less intensive classification, or the Board shall find that the use proposed for substitution is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board may require that additional conditions and safeguards be met, which requirements shall pertain as stipulated conditions to the approval of such change, and failure to meet such conditions shall be considered a punishable violation of this Ordinance. Whenever a non-conforming use has been changed to a less intensive use or becomes a conforming use, such use shall not thereafter be changed to a more intensive use.

**SECTION 150.707. NON-CONFORMING LOTS OF RECORD.**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variances of requirements listed in Articles 7 of this Ordinance other than lot area or lot width shall be obtained only through action of the Board of Zoning Appeals.

**SECTION 150.708. NON-CONFORMING USES OF LAND.**

Where, at the time of adoption of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Ordinance the uses may be continued so long as they remain otherwise lawful, provided:

1. If any such non-conforming uses of land are discontinued or abandoned for more than two (2) years (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located;

**SECTION 150.709. NON-CONFORMING STRUCTURES AND LAND IN COMBINATION.**

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Should such non-conforming structure or non-conforming portion of a structure be destroyed by any means, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
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2. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**SECTION 150.710. NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION.**

If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance but no such use shall be extended to occupy any land outside such building;
2. If no structural alterations are made, any non-conforming use of a structure or structure and land in combination, may, upon appeal to the Board of Zoning Appeals, be changed to another non-conforming use provided that the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with other provisions of this ordinance;
3. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;
4. When a non-conforming use of a structure, or structure and land in combination, is discontinued or abandoned for more than two (2) years (except when government action impedes access to the premises), the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

**SECTION 150.711. TERMINATION OF USE THROUGH DISCONTINUANCE.**

When any non-conforming use is discontinued or abandoned for more than two (2) years, any new use shall not thereafter be used except in conformity with the regulations of the district in which it is located, and the non-conforming use may not thereafter be resumed. The intent to continue a non-conforming use shall not be evidence of its continuance.

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**SECTION 150.712. TERMINATION OF USE BY DAMAGE OR DESTRUCTION.**

In the event that any non-conforming building or structure is destroyed by any means, it may be rebuilt, restored, or reoccupied provided:

- I. A Zoning Certificate pertaining to such restoration shall be applied for and issued within one (1) year of such destruction, and rebuilding shall be diligently pursued to completion.
2. Such restoration shall not cause a new non-conformity, nor shall it increase the degree of non-conformance or non-compliance existing prior to such damage or destruction.

**SECTION 150.713. REPAIRS AND MAINTENANCE.**

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of bearing or non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Where appropriate, a building permit for such activities shall be required.

**ARTICLE IX  
WIRELESS COMMUNICATION TOWERS AND SYSTEMS**

**SECTION 150.800 APPLICABILITY AND PURPOSE.**

This Code is applicable to commercial operators and operations, and is not applicable to a licensed amateur operator (ham operator) of a single amateur radio station. It is the purpose of the provisions of this chapter, known as "Wireless Communication Towers and Systems:" to:

- (a) Accommodate the need for wireless communications towers and facilities for the provision of wireless services while regulating their location and number in the Village.
  - (b) Minimize adverse visual effects of communications towers and support structures through proper siting, design and screening.
  - (c) Avoid potential damage to persons and adjacent properties from failure of communications towers and support structure or other hazards; and
  - (d) Encourage the joint use of any new and existing communications towers and support structures to reduce the number of such structures needed in the future.
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## **SECTION 150.801 DEFINITIONS.**

The following definitions shall apply to this chapter:

**CELLULAR COMMUNICATION SERVICES.** Personal communications accessed by means of equipment and services.

**FENCE.** A barrier intended to enclose or restrict access to an area or to mark a boundary, constructed of wood, wire or other material, supported on posts.

**MICRO ANTENNAS.** Any wireless communication antennas which consist solely of the antenna and which do not have any supporting structures other than brackets, including micro cells.

**TALL STRUCTURES.** Any structure or building, including but not limited to, smoke stacks, water towers, buildings over 35 feet in height, antenna support structures of other wireless communication companies, and other communication towers.

**WIRELESS COMMUNICATIONS ANTENNA.** Any structure or device used to receive or transmit electromagnetic waves between phones, pagers, commercial mobile services, wireless services and ground-wired communications systems including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips and other equipment utilized to serve personal communication services.

**WIRELESS COMMUNICATIONS SITE.** A tract, lot or parcel of land that contains the wireless communications tower, antenna, support structure, parking and any other uses associated with and ancillary to wireless communications transmission.

**WIRELESS COMMUNICATIONS SUPPORT STRUCTURE.** Any building or structure, including equipment, shelter, guy wire anchors, accessory to but necessary for the proper functioning of the wireless communications antenna or tower.

**WIRELESS COMMUNICATIONS TOWER.** A freestanding structure used to support a wireless communications antenna. Such tower may be constructed as a monopole, meaning one cylindrical column in the air, or, subject to the provisions of this chapter, as a lattice tower, meaning three or more vertical legs trussed together, or a guyed tower, meaning a structure that because it is less substantial is secured to the ground by wires, cables or similar material.

**WIRELESS COMMUNICATIONS TOWER, HEIGHT OF.** The height from the base of the structure, at grade, to its top or to the top of any antenna located thereon, whichever is greater. Grade shall be determined as the elevation of the natural or existing topography of the ground level prior to construction of the tower.

**WIRELESS SERVICES.** Commercial mobile services, unlicensed wireless services and common carrier exchange access services.

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## **SECTION 150.802 APPLICATION PROCEDURE.**

(a) Any person or company intending to apply for the placement or operation of a wireless communications antenna, or site within the village shall first schedule a pre-application conference with the Village Administrator or his assignee. At this conference, the prospective applicant must present to the Village Administrator or his assignee any proposed locations for the equipment or site, also demonstrating the need for a tower and that all alternatives to the construction of a new tower, such as co-location, have been exhausted. This information should identify the area within which the tower may be located, the maximum height of the proposed tower and identify any possible users that may co-locate at the site. The purpose of the pre-application conference will be to evaluate the impact on adjacent areas and neighborhoods, discuss possibilities of co-location, and identify alternative suitable sites that may minimize the negative impact on residential areas.

(b) Upon completion of the pre-application conference, an application may be filed with the office of the Village Administrator. The application shall be in compliance with the provisions of this chapter, and in compliance with all applicable provisions of the Village Zoning Code except those in conflict with this chapter, and in such form as approved by the Village Administrator. If the application does not conform with said provisions, the applicant shall be notified by the Village Administrator and no further consideration of the application shall occur until it is in compliance with the terms of the ordinance.

(c) The application fee for a wireless communication system, tower, antenna, or site shall be \$2,000 for each proposed location and \$500 for each new user proposing to co-locate.

## **SECTION 150.803 USE REGULATIONS.**

The following use regulations shall apply to wireless communications antennas and towers:

(a) A wireless communications site, subject to this chapter, may be permitted as follows within GI, General Industrial and LI, Light Industrial zoning districts, provided such wireless communication otherwise complies with this chapter.

(b) Wireless communications sites in a zoning district or area where such use is permitted shall not be located any closer to any residential zoning district than as follows:

(1) If a wireless communication tower is 100 feet or less in height, the site shall be located no closer than 500 feet to any residential zoning district.

(2) For any wireless communication tower exceeding 100 feet in height, the site may not be located closer to any residential zoning district than a distance equal to 500 feet plus two feet for each foot of height that the tower exceeds 100 feet.

(c) A wireless communications antenna may be mounted to or within an existing structure, such as a communications tower (whether said tower is for wireless purposes or not), smoke stack, steeple, water tower or other tall structures in any zoning district or area where a wireless

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communication site is permitted. Wireless communication antenna may only be placed on the top of buildings that are greater than 35 feet in height.

(d) Micro antennas may be placed on any buildings in a zoning district or area where a wireless communication site is permitted. A micro antenna shall not be subject to the set back requirements of other wireless communication towers provided it is placed on the roof of an existing building.

(e) All other uses accessory to the wireless communications antenna and towers including , but not limited to business offices, maintenance depots, and materials and vehicle storage, are prohibited from the site unless otherwise permitted in the zoning district in which the wireless communications antenna and/or tower is located.

#### **SECTION 150.804 STANDARDS FOR LOCATION OF WIRELESS COMMUNICATIONS ANTENNAS AND TOWERS.**

(a) The following standards shall apply to all wireless communications antennas and towers:

(1) The wireless communications company shall demonstrate, using the latest technological evidence, why the antenna or tower must be placed in a proposed location in order to serve its necessary function in the company's grid system. Part of this demonstration shall include a drawing showing the boundaries of the area around the proposed location which would probably also permit the antenna to function properly in the company's grid system. This area shall be considered the allowable zone.

(2) If the communications company proposes to build a wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of any nearby tall structures within the allowable district or area, asked for permission to install the communications antenna on those structures, and was denied for either non-economic reasons or that a clearly unreasonable economic demand was made by the owner, based on prevailing market values.

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

#### **SECTION 150.805 STANDARDS FOR APPROVAL OF ALL WIRELESS COMMUNICATIONS ANTENNAS AND TOWERS.**

(a) Antenna/tower height. The applicant shall demonstrate that the planned height of a wireless communications tower is no higher than necessary to function satisfactorily and to accommodate the co-location requirements as set out in Subsection 1268.05. No tower that is taller than the necessary height shall be approved, and the height of any tower to be greater than 200 feet must first be approved by the Planning Commission. Towers shall be monopole construction unless it is demonstrated upon application that another type of tower is required for safety purposes and it has been approved by the Planning Commission.

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(b) Setbacks from the base of the tower. If a new wireless communications tower is to be constructed in an industrial zoning district, the minimum distance between the base of the tower, or if so supported, between any guy wire anchors supporting the tower, and any property line which abuts a zoning district other than a residential district shall be no closer to that district than the greater of 50 percent of the tower height or 50 feet.

(c) Wireless communications tower safety. All wireless communications towers shall be fitted with anti-climbing devices as approved by the manufacturers. Furthermore, the applicant shall demonstrate that the proposed wireless communications tower and its antenna are safe and that the surrounding properties will not be negatively affected by tower failure, falling ice or other debris, electromagnetic fields or radio frequency interference. However, if a specific safety issue in question is determined to be regulated by either FCC Regulations or applicable Building Code regulations, and the operation or construction is in compliance with such regulations, then this requirement for safety shall be deemed to have been met. Subsequent to the installation of a wireless communications tower site, if it is determined by the Village Council, upon presentation of proper and sufficient documentation, and after a public hearing, that the operation of a wireless communications tower is inherently dangerous or is a demonstrable health hazard, the wireless communication tower shall be declared to be a nuisance and all operation shall cease. The tower or antenna shall also be removed as provided under § 1268.15 of this chapter. However, no order of removal shall be made if it is inconsistent with any provisions herein or with any existing FCC Regulations.

(d) Fencing. A fence or wall shall be required around the wireless communications tower and its support structure(s), unless the antenna is mounted on an existing structure. The fence shall be a minimum of eight feet in height and shall be erected to prevent access to non-authorized personnel.

(e) Landscaping. Landscaping in compliance with a plan approved by the Village Administrator or his assignee, shall be provided to screen as much of the support structure and ground level features as is possible. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

(f) Limiting the number of wireless communications towers. In order to reduce the number of antenna support structures needed in the village, the owner of an existing wireless communications tower shall not unreasonably deny a request to accommodate other users, including other wireless communications companies, and the antenna of local or joint police, fire, and ambulance department. Nothing contained herein is intended to prevent the owner of the existing wireless communications tower from receiving reasonable compensation for the use of its tower by commercial users. Unless waived for good cause by the Planning Commission to minimize impact on adjoining property, for the purposes of encouraging co-location of wireless antenna and other users, wireless communication towers shall be designed, engineered, and constructed as follows:

(1) Towers less than 75 feet tall shall be designed, engineered and constructed to support antennas installed by at least two wireless communication service users;

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(2) Towers more than 75 feet in height, but less than 150 feet shall be designed, engineered and constructed to support antennas installed by at least three wireless communication service users; and

(3) Towers 150 feet in height or taller shall be designed, engineered and constructed to support antennas installed by at least four wireless communication service users.

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

(g) Licensing. The communications company must demonstrate to the village that it is licensed by the Federal Communications Commission (FCC). The owner of the tower must also annually provide to the village no later than January 31 of each year, and at such time as a new user is added, a list of all users of the tower and each user shall provide the village with a copy of that user's license with the FCC. No approval will be granted to any applicant or user unless proof of a current FCC license for the proposed use of the tower is provided.

(h) Access. Access to the wireless communications site shall be paved with concrete or asphalt, and the perimeter of the access drive and parking lot shall be curbed.

(i) Required parking. If the wireless communications site is fully automated, adequate parking shall be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in the Village's Code of Ordinances.

(j) Appearance. Wireless communications towers under 200 feet in height shall be painted silver or have a galvanized finish retained, or be finished with a neutral color matching its background in order to reduce visual impact. The applicant shall demonstrate that the proposed wireless communication tower is the least aesthetically intrusive facility for the neighborhood and function. It is further recommended that all buildings and structures be architecturally compatible with the neighborhood and function. Wireless communications towers may not be artificially lighted except when required by the FAA. Furthermore, no wireless communication tower or antenna and accessory buildings and structures shall contain any signage except safety signage. All utility lines serving the towers shall be underground, unless there is a demonstrated safety hazard created by underground installation.

(k) Site plan and documentation required. A full site plan shall be required for all proposed wireless communications sites, except antenna to be placed on existing structures, at a reasonable scale, but not smaller than 1 inch to 20 feet (1"= 20'), indicating, as a minimum, the following:

(1) The total area of the site and the identity of the owners(s).

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(2) The existing zoning of the property in question and existing zoning and ownership of all adjacent properties.

(3) All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned.

(4) Existing topography with a maximum of five foot contours intervals.

(5) The proposed finished grade of the development shown by contours not exceeding five foot intervals.

(6) The location of all existing buildings and structures and the proposed location of the wireless communications tower and all wireless communications support structures including dimensions, heights, and where applicable, the gross floor area of the buildings.

(7) The locations and dimensions of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, grades, surfacing materials, drainage plans and illumination of the facility.

(8) All existing and proposed sidewalks and open areas on the site.

(9) The location of all proposed fences, screening and walls.

(10) The location of all existing and proposed streets.

(11) All existing and proposed utilities including types and grades.

(12) The schedule of any phasing of the project.

(13) Documentation which shows all buildings and structures on adjacent lots and any additional lot which has a lot line within 500 feet of the lot on which the tower is proposed to be located, and the identity of the owner(s). The approximate elevation of the highest point of each building or structure shall be noted. Applicant may identify any additional features in the area (such as existing screening, fences and topography) which may be helpful in considering the impact of the proposed tower on nearby property.

(14) A report for all proposed wireless communication sites, except antenna toe placed on existing structures, to include: a description of the tower with technical reasons for its design; documentation establishing the structural integrity for the tower's proposed uses; the general capacity of the tower, and information necessary to assure that ANSI standards are met; a statement of intent on whether excess space on the tower will be leased; proof of ownership of the proposed site or authorization to utilize it; and a visual study depicting "where within the village limits any portion of the proposed tower could be seen."

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(15) Any other information as may be required to determine the conformance with this Code and any applicable provisions of the Building and Zoning Codes.

(l) Notwithstanding the foregoing division, for wireless communications antenna to be placed on an existing structure, with no new tower to be erected, the applicant need submit to the Village Administrator only such information as is required to insure compliance with the applicable provisions of this chapter and the Building and Zoning Codes, including but not limited to, FCC licensing, safety provisions as to the antenna and authorization to utilize the site.

#### **SECTION 150.806 MAINTENANCE.**

Any owner or person in charge of property used as a wireless communications site shall maintain such property and all structures in good condition and free from trash, outdoor storage, weeds and other debris, and the Village Administrator or his designee may inspect the property at any reasonable time to assure that such property is properly maintained. Any owner of a wireless communications tower shall, at least 30 days in advance, notify the Village Administrator in writing of its intent to discontinue operation or service, or transfer of ownership.

#### **SECTION 150.807 REMOVAL.**

(a) Any wireless communications tower that has discontinued its service for a period of six continuous months or more is hereby determined to be a nuisance. A tower declared to be a nuisance, must be removed, along with all accessory structures related thereto, and the property restored to its former condition. Discontinued shall mean that the structure has not been properly maintained, has been abandoned, become obsolete, or is unused or has ceased the daily activities or operations which had occurred.

(b) Whenever, upon inspection, it shall appear that a wireless communications tower or site has been abandoned or its use discontinued, and its removal is directed by the Village Council, the Village Administrator or a designated representative shall notify, either by personal delivery or by certified mail, the owner or person in charge of the property on which the tower is located that the tower must be taken down and removed. The Village Administrator or a designated representative, in addition to any other citations, notices, penalties or remedies provided by law or ordinance, is authorized to proceed in a manner consistent with and pursuant to Ohio R.C. §§ 715.26 and 715.261 to maintain the public health, safety and welfare and to recover costs as appropriate.

(c) If the owner or person in charge of the property referred to in the preceding paragraph fails to comply with the notice from the Village Administrator or his designated representative, the Village Administrator shall cause the tower to be taken down and removed, and when this has been accomplished, a statement of the cost therefore shall be mailed to the owner or person in charge by certified mail, return receipt requested. Upon failure of the owner or person in charge to pay within 30 days the amount of the statement provided, the Village Clerk may certify the total costs upon the tax list and duplicate for taking down and removing the tower and be a lien

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upon such owner's land from and after the date of entry, and shall be collected as other taxes and returned to the village with the general fund settlements.

#### **SECTION 150.808 PROHIBITIONS.**

(a) No wireless communications tower shall be permitted on any lot on which any non-conforming building or structure is located or on which any non-conforming use or activity is occurring without first obtaining permission from the Village Board of Zoning Appeals.

(b) No wireless communications tower shall be constructed, replaced, or altered without first obtaining an applicable building permit.

(c) A wireless communication antenna or communication site shall not be placed, operated, constructed, affixed or otherwise located within the village except as allowed and permitted by this Code.

(d) The Board of Zoning Appeals shall have the power to authorize on appeal in specific cases any variances from the terms of this chapter as will not be contrary to the public interest.

#### **SECTION 150.809 PENALTY.**

(a) Any person, firm or corporation who constructs a wireless communications support structure or a wireless communications tower in violation of any provisions of this chapter or the Zoning Code shall be fined not more than \$ 10,000.00.

(b) Except as otherwise provided herein, any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any provisions of this chapter, shall be guilty of a misdemeanor of the first degree for each offense or violation. Each and every day that an offense or violation continues shall constitute a separate offense.

First reading November 22, 2022

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