

CHAPTER 155: ZONING CODE

Section

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§ 155.01 SHORT TITLE.

This chapter shall be known as the "Zoning Ordinance of the City of the Village of Indian Hill" and the map herein referred to, which is identified by the title "Zoning Map, the City of the Village of Indian Hill, Ohio" and dated June 5, 1945, shall be known as the "Zoning Map".

('80 Code, § 150.01) (Ord. 7-45, § 1, passed 6-5-45)

§ 155.02 INTERPRETATION AND PURPOSES.

The provisions of this chapter shall be the minimum requirements, adopted for the promotion of the public health, safety, convenience, comfort, morals, prosperity and general welfare. Where this chapter imposes greater restrictions upon the use of buildings or other structures or the use of land, or upon the height of buildings or other structures, or requires larger yards or other open spaces than are imposed or required by other provisions of law or ordinance, the provisions of this chapter shall prevail.

('80 Code, § 150.02) (Ord. 7-45, § 2, passed 6-5-45; Am. Ord. 2-84, passed 2-27-84)

§ 155.03 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

AGRICULTURE. The tilling of the soil, the raising of crops, horticulture, floriculture, viticulture, grazing, animal husbandry, dairy farming, including all uses incidental thereto, but not including slaughter houses, fertilizer works, bone yards or plants for the reduction of animal matter, hog farms or fur farms.

ALTERATION. The modification of a structure which in any way materially changes the original exterior form, shape, size and location of any part thereof.

BUILDING. A structure designed or used for the shelter of persons, animals or chattels.

CAMPS. Any parcel of land upon which two or more camp cottages are located or where accommodations are provided for temporary or semi-permanent residence for two or more automobile trailers, house cars or tents open to the public either free or for a fee.

COLUMN. An architectural pillar, either constructed as a singular feature, or as a supporting feature for a fence, wall or gate.

DAY CARE OPERATION. A facility or program under the licensing jurisdiction of the Ohio Department of Human Services which administers to the needs of children under the age of 15 outside of school hours by persons other than their parents or guardians, custodians or relatives by blood, marriage or adoption for any part of the 24 hour day.

DWELLING. Any structures designed or used as an abode, except:

- (1) Boarding or lodging houses, hotels and tourist camps, and
- (2) Trailers, mobile homes, travel trailers, campers, relocatable or portable homes and houses and other like structures.

DWELLING, MULTIPLE. A structure or part thereof designed for, or used by two or more families.

DWELLING, ONE-FAMILY. A detached structure designed for, or used exclusively by one family.

EARTHEN BERM. A mound of earth materials such as soil, sand, rock, gravel, or similar material,

designed to restrict visual or physical access into a lot or parcel.

EASEMENT OF ACCESS. A right-of-way, for immediate or future use, to provide vehicular access and accommodation for utilities, from a street to a lot, a rear dwelling or an accessory building used as a residence.

ENTRYWAY WALL. A structure of stone, brick, block masonry, concrete or wood, constructed as an ornamental and/or security feature at the entrance to a residence, subject to the requirements set forth in § 155.05(J).

FAMILY. One or more persons, including domestic servants occupying a premise and living as a single, non-profit housekeeping unit, as distinguished from two or more such families served by separate kitchen facilities.

FENCE. A structure primarily intended to prevent straying from within, physical intrusion, or site intrusion.

FENCE, AGRICULTURAL. Any fence system, including any integrated gates, specifically designed to protect agricultural crops and/or plants contained within said fence, or designed to contain livestock harbored in connection with a bona fide agricultural use.

GARAGE, PRIVATE. An accessory structure or space for the storage of one or more motor vehicles or trailers, provided that no business, occupation or service is conducted therein for profit.

GARAGE, PUBLIC. Any structure or space not a private garage providing for the storage of one or more motor vehicles or trailers, or repairs on such vehicles, or the sale of accessories or filling station service.

GATE. A movable hinged structure, connected to a fence or wall, which can be opened to permit access to property.

HEIGHT OF STRUCTURE OTHER THAN BUILDING. The vertical distance measured from the established street grade or the average finished grade at the building line, whichever is the higher, to the highest point of the structure.

HEIGHT OF BUILDING. The vertical distance measured from the established street grade or the average finished grade at the building line, whichever is the higher, to the mean level between the eaves and the highest point of the roof.

HEIGHT OF COLUMNS, EARTHEN BERMS, FENCES, GATES, AND WALLS. The vertical distance measured from the ground to the highest point of the column, earthen berm, fence, gate, or wall, or any appurtenance attached thereto.

HEIGHT OF FOUNDATION. The vertical distance measured from the average original grade at the front of the building line to the top of the foundation wall.

HOME OCCUPATION. Any professional or business activity conducted in a dwelling by a member of the immediate family residing on the premises, in connection with which there is no display that indicates from the exterior that the building is being used in whole or in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises; not more than one person is employed other than members of the immediate family residing on the premises; no mechanical or electrical equipment is used except such as is customary for purely domestic or household purposes; there is no receipt or delivery of merchandise, goods or equipment by other than first class mail. The use of the dwelling unit for the home occupation shall be clearly subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation. No home occupation shall be conducted in any accessory building. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by conduct of such home occupation shall be met off the street and other than in a required front yard.

IMPERVIOUS SURFACE. Any structure, as defined in this section, and any site improvement, including driveways, walkways, patios, and other similar site features, which are constructed of materials which are impermeable by water.

LOT. Any parcel or plot of land occupied or intended to be occupied by one structure and its accessory structures and uses, including the open spaces required by this chapter and other ordinances and laws.

LOT AREA. The total horizontal area included within the lot lines of the lot. No street shall be included in the lot area.

LOT, CORNER. A lot which has two adjacent sides abutting on a street or streets, provided the interior angle at the intersection of such two sides is less than 135 degrees.

LOT DEPTH. The average distance from the front lot line to the rear lot line, measured in the mean direction of the side lot lines.

LOT LINE, FRONT. In case of an interior lot, the line separating the lot from the street.

(1) In the case of a corner lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street line as the front lot line, provided that such choice, in the opinion of the Planning Commission, will not be injurious to the existing or desirable development of adjoining properties.

(2) Wherever a principal building is to be located on a lot, which does not abut upon a street, but which is adjacent to a lot which abuts upon a street, there shall be an unobstructed easement of access at least 40 feet wide. When this situation exists, a front lot line shall be selected which will meet lot frontage requirements, provided that such choice, in the opinion of the Planning Commission, will not be injurious to the existing or desirable future development of adjoining properties.

LOT FRONTAGE. The greater of the following two distances; either the length of the front lot line or the length of a line substantially parallel to the front lot line, at the required least front yard depth.

LOT, INTERIOR. Any lot other than a corner lot.

LOT LINE, REAR. The lot line which is generally opposite the front lot line.

LOT LINE, SIDE. Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street shall be called a street side lot line; a side lot line separating a lot from another lot or lots shall be called an interior side lot line.

LOT LINES. The lines bounding a lot.

LOT OF RECORD. A lot which is a part of a subdivision, the map of which has been recorded in the Office of the Recorder of Hamilton County on or prior to the effective date of these regulations, or a parcel of land, the deed to which was of record on or prior to the effective date of these regulations. In any case where multiple parcels of land are recorded or consolidated under one deed, the individual parcels shall not constitute separate lots of record, unless they conform to the requirements set forth in this chapter and the Indian Hill Subdivision Regulations.

OPEN CONSTRUCTION; PERCENTAGE OF. The construction of a fence or wall with openings between the materials used for the fence or wall. The "percentage" of open construction is the total open area of each five foot linear section of the fence or wall face, up to the height of five feet, viewed perpendicularly.

PARCEL OF LAND (AUDITOR'S PARCEL). A parcel of land so designated and enumerated on the maps and records of the Hamilton County Auditor which, in and of itself, does not constitute a lot of record.

PERSONAL WIRELESS FACILITIES. A facility for the provision of personal wireless service, including antennas, supporting masts, towers and other antenna support structures, and associated telecommunications equipment cabinets and/or buildings. Such facilities are subject to the standards and procedures set forth in the Personal Wireless Facilities Ordinance (Ord. 12-97, passed 7-14-97).

PLACE OF ASSEMBLY. A facility, other than a school, place of worship or day care operation, where people gather to engage in recreation or instruction on a non-commercial basis, or which provides space on a non-commercial basis to the general public, or only to members of the organization that owns or operates the facility, for such social gatherings as meetings, weddings, sporting events, banquets or public service programs. The term **PLACES OF ASSEMBLY** shall include, but not be limited to libraries, Sunday Schools and other facilities for religious instruction, country clubs and lodges offering space for seminars and banquets.

PLACE OF WORSHIP. A facility where people gather primarily to engage in religious worship.

PORTICO. A small porch or walkway with a roof, either with or without columns, leading to the entrance of a building.

RETAINING WALL. A structure of stone, brick, block masonry, or concrete, constructed to retain earth where the yard level is as different planes.

SCHOOL. A publicly-owned or privately-owned pre-elementary school, elementary school, middle school, junior high school or high school which does not provide lodging for students.

STREET. A right-of-way, publicly or privately owned, 50 feet or more in width, which provides public vehicular and pedestrian access to adjacent properties.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground, including buildings, trailers, mobile homes, travel trailers, campers, relocatable or portable homes and houses and other like units, playgrounds, parking lots,

fences walls, tennis courts, swimming pools, dams or earthworks for retaining water, earthen berms for preventing straying from within and/or physical and sight intrusion, and like construction.

USE. The purpose of which land or structures thereon is designed, arranged or intended, or for which it is or may be occupied or maintained.

USE, ACCESSORY. A use incidental to, and associated with a permitted principal use of a lot or structure, located on the same lot as such principal use or structure. A separate dwelling is not an accessory use.

USE, COMMERCIAL DAIRY FARM. The keeping and processing of dairy cows for the purposes of selling milk and cheese products as part of an agricultural farm operation which is owned and operated by a family resident on such farm.

USE, COMMERCIAL POULTRY FARM. The keeping and processing of live poultry for the purposes of selling eggs and/or chicks as part of an agricultural operation which is owned and operated by a family resident on such farm.

USE, DOG KENNEL. The keeping of dogs for the purposes of animal husbandry and selling of pups as part of an agricultural farm operation which is owned and operated by a family resident on such farm.

USE, HORSE BOARDING FARM OR STABLE. The care and keeping of horses as an accessory use to a residential or agricultural use by the owner of record of the property upon which said horses are domiciled.

USE, MUNICIPAL OFFICES AND USES. Offices, fire stations and other facilities owned, leased or otherwise operated or contracted by the municipal government of the Village of Indian Hill for the purpose of providing services to the public.

USE, NON-CONFIRMING. Any lawful use of a structure or of land existing at the time of the enactment of this chapter, which does not conform with the provisions of this chapter for the district in which it is located.

USE, PRINCIPAL. The main purpose for which land or structures thereon is designed, arranged or intended, or for which it is or may be occupied or maintained.

USE, PUBLIC UTILITY. The erection, construction, alteration, operation or maintenance of buildings substations, water pumping stations, sewage disposal pumping stations and other similar public utility structures by a public utility, a railroad, or a municipal or other governmental agency, including the furnishing of electrical, gas, telephone, cable television, rail transport, public water and sewage services for the principal benefit of residents of Indian Hill.

USE, SPECIAL EXCEPTION. Any use lawfully authorized by the Planning Commission pursuant to § 155.10(D).

VISIBILITY AREA/TRIANGLE. The triangular area of a corner lot, situated at the point of intersection of public right-of-ways intended to provide adequate visibility. The triangle is formed by establishing three lines, two lines parallel to each property line or right-of-way 30 feet in length, and one line joining the other two diagonally.

WALL. A structure of stone, brick, block masonry, or concrete, raised to a height primarily intended to prevent straying from within, physical intrusion, or sight intrusion or to retain earth where yard level is at different planes.

YARD. The open space on the same lot with a principal structure, lying between such structure and a lot line, open, unoccupied and unobstructed by any structure from the ground to the sky, except as otherwise provided in this chapter.

YARD FRONT, LEAST DEPTH. The shortest distance, measured horizontally, from the nearest portion of a principal structure, excluding permitted obstructions, to the front lot line.

YARD, FRONT. A yard extending across the entire width of the lot, between a principal structure and the front lot line.

YARD, REAR. A yard extending across the entire width of the lot, between a principal structure and the rear lot line.

YARD REAR, LEAST DEPTH. The shortest distance, measured horizontally, from the nearest portion of a principal structure, excluding permitted obstructions, to the rear lot line.

YARD, SIDE. A yard extending along a side lot line, from the front yard to the rear yard, between a principal structure and such side lot line.

YARD SIDE, LEAST WIDTH. The shortest distance, measured horizontally, from the nearest portion of a principal structure, excluding permitted obstructions, to the side lot line.

('80 Code, § 150.03) (Ord. 7-45, § 3, passed 6-5-45; Am. Ord. 12-75, passed 5-27-75; Am. Ord. 2-84, passed 2-27-84; Am. Ord. 24-89, passed 9-25-89, Am. Ord. 2-99, passed 2-22-99; Am. Ord. 14-03, passed 9-29-03; Am. Ord. 28-04, passed 11-22-04; Am. Ord. 12-08, passed 8-25-08)

§ 155.04 ESTABLISHMENT OF DISTRICTS.

(A) Purpose. The establishment of districts is intended to provide for the logical development of the village in a manner that is consistent with the Land Use Plan and in concert with the Land Use Objectives and Policies.

(B) Districts. For the purpose of this chapter, the village is hereby divided into three types of districts as follows:

- (1) District "A."
- (2) District "B."
- (3) District "C."

(C) Districts boundaries.

(1) The boundaries of these districts are hereby established as shown on the map entitled zoning map, dated June 5, 1945, which accompanies and is hereby made a part of this chapter.

(2) Unless otherwise indicated on said zoning map, the boundary lines of districts are intended to follow lot lines or the projection of lot lines, the center lines of streets or other ways, or the extension of such center lines, or the corporate limit line, all as they existed at the time of the enactment of this chapter.

(3) Questions concerning the exact location of district boundary lines shall be decided by the Planning Commission as provided under § 155.10.

('80 Code, § 150.04) (Ord. 7-45, § 4, passed 6-5-45, Am. Ord. 2-99, passed 2-22-99)

§ 155.05 GENERAL PROVISIONS.

(A) Purpose. The purpose of this section is to establish general provisions which apply to all districts, continuing existing uses, accessory structures and parking requirements and fences, walls and earthen berms. The standards contained in this section are intended to conserve, and protect private property and the environment in the village, and promote the safety and security of village residents, in accordance with the village's adopted Land Use Objectives and Policies for such structures.

(B) Effect of establishment of districts. Except as hereinafter otherwise provided:

(1) No structure shall be erected and no existing structure shall be moved, converted, altered, added to or enlarged, nor shall any land or structure be used for any purpose or in any manner other than as permitted in the district in which such structure or land is located.

(2) No structure shall be erected, reconstructed or altered to exceed in height the height limit hereinafter designated for the district in which such structure is located.

(3) No structure shall be erected, and no existing structure shall be moved, reconstructed, altered, added to or enlarged, nor shall any lot area or any open space surrounding any structure be encroached upon or reduced in any manner, except in conformity with the lot area, yard and other requirements hereinafter designated for the district in which the structure or open space is located.

(4) No lot and no yard or other open space provided about any structure for the purpose of complying with the provisions of this chapter shall be considered as providing lot area or a yard or other open space for any other structure; and no lot area, yard or other open space on one lot shall be considered as providing a yard or open space for a structure on any other lot.

(5) No non-conforming lot or parcel of land shall be further reduced in area. No lot or parcel of land which complies as to lot area for the district in which it is located shall be reduced in areas so that its remaining area fails to meet the requirements of the zoning code. Any lot or parcel created by the violation of these terms of the next preceding sentence shall be deemed to be a non-conforming lot.

(C) Continuing existing uses. The lawful use of any land or structure existing at the time of the enactment of this chapter may be continued, except certain non-conforming uses as provided in divisions (D)(3) and (D)(4) below.

(D) Non-conforming uses.

(1) No non-conforming use of a structure or of land shall be changed to another non-conforming use, unless authorized by the Planning Commission as provided in § 155.10(D).

(2) No structure containing a non-conforming use and no non-conforming use of land shall be enlarged or extended unless such enlargement or extension shall conform with the provisions of this chapter for the district in which such non-conforming use is located, unless authorized by the Planning Commission as

provided in § 155.10(D).

(3) No non-conforming structure which has been destroyed by fire, flood, demolition or other causes to the extent of 75% or more of its reproduction cost shall be repaired, reconstructed, or used except in conformity with the provision of this chapter. Restoration shall begin within six months of the time of the damage or destruction. Restoration shall be considered commenced when actual construction has begun on the premises.

(4) No structure or land where a non-conforming use has been abandoned, or has been changed to a use permitted in the district in which it is located, shall again be devoted to a non-conforming use. Lack of such use for a period of one year shall be prima facie evidence of abandonment.

(5) The provisions under divisions (C) and (D) of this section shall apply to non-conforming uses resulting from amendments made hereafter to the regulations imposed and the districts established by this chapter.

(E) Restoring unsafe buildings. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any part of any structure declared unsafe by the City Manager, or shall prevent compliance with any lawful requirements.

(F) Rear dwellings. Any rear dwelling shall conform to all lot area and yard requirements of this chapter for a principal building, and for the purpose of determining the front yard required in such case, the rear line of the rear yard required for the principal building shall be considered the front lot line for the building in the rear and there shall be provided vehicular access and accommodation for utilities.

(G) Location of accessory structures. Accessory structures shall conform to the following regulations:

(1) No accessory structure shall be erected in any required front yard, or in any side yard within a distance from either the principal building or the nearer side lot lines less than the least width of the side yard required for the principal building.

(2) Accessory structures shall not cover in the aggregate more than 20% of a required rear yard.

(3) Unless an integral part of a dwelling, an accessory structure, other than silos, corn cribs or like structure, in which no farm animals are kept or processed, shall be distant not less than 20 feet from every other structure on the same lot. An accessory structure in which farm animals are kept or processed shall be distant not less than 50 feet from every dwelling and not less than ten feet from every other structure except silos, corn cribs or like structures on the same lot.

(4) On any corner lot, no accessory structure shall be erected nearer the street side lot line than the least depth of the front yard required on the lot adjoining such corner lot in the rear.

(5) Except upon application and authorization under § 155.10(E), no fence, wall or other structure, or shrubbery or planting shall be erected within the right-of-way lines of streets established by the Plan of Principal and Secondary Streets adopted October 28, 1947, or of streets subsequently established.

(H) Yard requirements on corner lots and yard obstructions.

(1) Yard requirements on corner lots. On any corner lot, the least width of any side yard along the street side lot line shall not be less than the least depth of the front yard required on the lot adjoining such corner lot in the rear, except that, if such corner lot is back to back with another corner lot, the width of this side yard need be only one-half of such front yard least depth.

(2) Yard obstructions. Yard obstructions attached to the principal or accessory structure on a site shall include: chimneys, bay windows, window-mounted air conditioning units, awnings, canopies, arbors, trellises, balconies, porticos, gutters, and overhanging eaves.

(a) Regulations for yard obstructions. A yard obstruction is any of these items extending outside of the allowable building envelope and into a required yard. A yard obstruction may extend no more than three feet into a required yard.

(b) Exceptions.

1. Overhanging roof eaves and gutters. In cases of overhanging roof eaves and gutters for new additions to existing structures where in such cases eaves and gutters may be constructed so to match or more closely match the existing roof eave and gutter, provided that such projection does not extend more than three feet into a required yard.

2. Porticos. In cases of porticos being attached to existing structures, where in such cases the portico must be constructed with certain proportions in order to preserve the aesthetic character of the existing structure, the portico may extend into the required yard no more than five feet. Yard obstruction regulations do not apply to uncovered stairs as specified in § 155.08.

(I) Front yards on lots running through the block. In any district on any lot which runs through a block from street to street, a front yard of the required least depth shall be provided along each street line.

(J) Fences, walls, and earthen berms.

(1) Purpose. The purpose of this section is to establish standards for fences, walls, earthen berms and similar structures proposed to be erected or reconstructed in the village after the effective date of these regulations. The standards contained in this section are intended to conserve, enhance, and protect private property and the environment in the village, and promote the safety and security of village residents, in accordance with the village's adopted Land Use Objectives and Policies for such structures.

(2) Applicability of regulations. All fences, walls, and earthen berms shall be erected and reconstructed in accordance with the requirements of this section.

(3) Fences, gates, walls, and earthen berms. No fence, gate, wall, or earthen berm, other than those intended for agricultural purposes and the keeping of livestock shall be constructed, installed, erected, placed or otherwise located in the village if said fence, gate, wall or earthen berm is more than six feet in height. See table in § 155.05(I)(5) below for the location and types of allowed fences, walls and earthen berms.

(a) Agricultural fences and gates. Fences, walls and gates specifically designed for agricultural purposes, including the keeping of livestock, may exceed the six-foot height limitation, provided that the applicant is able to demonstrate to the City Manager that the height exception is critically necessary to the agricultural operation. In no event shall any fence, wall or gate exceed eight feet in height.

(4) Fences, walls and plantings on a corner lot. On any corner lot, no fence or planting more than three feet in height above the established street grades shall be constructed, installed, erected, placed or otherwise located within the visibility area as defined in § 155.03.

(5) Type and design of fences, gates, walls, berms. As regulated by this chapter, the following types of fences, walls, and earthen berms may be constructed, installed, erected or otherwise placed:

<i>TYPE/ DESIGN</i>	<i>NO SITE CLEARANCE REQUIRED</i>	<i>SITE CLEARANCE REQUIRED</i>	<i>VARIANCE REQUIRED</i>
FENCES	Any fence constructed of at least 40% open construction and not more than four feet in height may be placed within any required front, side or rear yard without compliance with setback requirements.	All fences constructed with less than 40% open construction and not more than four feet in height may be located in any side and rear yard setback area. Fences of this type may not be located within the required front yard setback for an interior lot or the required front and side street setbacks of a corner lot.	All fences constructed with less than 40% open construction and at a height greater than four feet are prohibited unless a variance is approved by the Planning Commission.
WALLS	Walls constructed not more than three feet in height may be located within any required front side or rear yard setback.	Walls constructed not more than four feet in height may be located within the required side and rear yard setback of an interior and/or corner lot. Walls of this type may not be located within the required front yard setback for an interior lot or the required front and side street setback of a corner lot. Entryway walls constructed not more than six feet in height, and conforming in all other respects to § 155.05(J)(8), are permitted within the required front yard setback of an interior lot or required front and side street	Walls constructed at a height greater than four feet in height are prohibited unless a variance is approved by the Planning Commission.

		setback of a corner lot, except as provided in § 155.05(J)(4).	
RETAI NING WALL S		All retaining walls are permitted without height restrictions and are not subject to setback requirements.	

<i>TYPE/ DESI GN</i>	<i>NO SITE CLEARANCE REQUIRED</i>	<i>SITE CLEARANCE REQUIRED</i>	<i>VARIANCE REQUIRED</i>
EART HEN BERM S	Earthen berms constructed not more than three feet in height may be in any front, side or rear yard.	All earthen berms of greater than three feet but not exceeding four feet may be located in any side or rear yard, except as provided in § 155.05(J)(4). Earthen berms of this type may not be located within the required front yard setback for an interior lot or the required front and side street setback of a corner lot.	All earthen berms of greater than four feet are prohibited unless a variance is approved by the Planning Commission.

(a) Unless a fence is constructed as to provide a finished surface on both sides it shall be constructed with the finished surface towards neighboring properties and/or public rights-of-ways.

(b) Regulated materials for fences or gates. The following materials shall be used only in the construction or erection of fences or gates as specified, all other uses of said materials shall be prohibited:

1. Barbed wire for agricultural and keeping of livestock purposes.
2. Metal chain-linked wire surrounding tennis courts or other recreational areas. Fences surrounding tennis courts or other recreational areas shall be subject to approval by the City Manager's Office.
3. Electrified wire fences used for agricultural, and keeping of livestock purposes, pursuant to § 155.05(J)(5)(c).
4. Underground electrified wire fences for the purpose of pet containment shall only be placed on the owner's property and not within the public rights-of-way.

(c) Requirements for electrical fences. Electrical fences may be erected on property used for agricultural purposes and for the keeping of livestock purposes. The electrical fence controller for voltage and current shall bear the underwriter's laboratory stamp of approval. In addition, an above ground electrical fence shall bear identifying and warning signs.

(6) Combination fence/wall or fence/ earthen berm. All combinations of these elements shall be consistent with the intent of § 155.05(J)(5) and shall be subject to the approval of the City Manager's office.

(7) Location of fences, walls, and earthen berms. All fences, walls, and earthen berms constructed, erected, installed, or placed shall be completely located within the owner's property and shall not extend or overhang onto the abutting property. Any fence, wall, earthen berm constructed on corner lots may not be located within the Visibility Area Triangle, as specified in § 155.05(J)(4).

(8) Entryways to property.

(a) Entryway columns, fences, and walls may be constructed, erected, installed or placed on the sides of a driveway but the combined length of these entryway fences and walls shall not be more than 20% of a minimum required front yard for the zoning district within which they are located, or exceed a combined total of 50 feet, and in the case of non-conforming lot frontages shall not exceed more than 20% of the existing non-conforming lot frontage. For example, a required frontage of 150 feet would be allowed a maximum combined total of 30 feet (15 feet on each side of the driveway) to be used for such entryway. Entryway walls need not be 40% open construction and shall be subject to the following height limitations for the respective zoning district within which they are located:

1. Entryway fences or walls located in Zoning Districts A or B shall not exceed six feet in height at the highest point.
2. Entryway fences or walls located in Zoning District C shall not exceed four feet in height at the

highest point.

(b) Entryway columns included as an element of, or connected to entryways, shall be subject to the following:

1. Entryway columns, which are designed to support an entryway gate, may extend a maximum of four feet above the maximum height for an entryway wall in the zoning district within which they are located.

2. Entryway columns, which are a part of the entryway wall but not designed to support an entryway gate, may extend a maximum of two feet above the maximum height for an entryway wall in the zoning district within which they are located.

3. The height limits applicable to entryway columns shall include the height of any lighting or other fixtures incorporated into the design of the column.

4. The maximum width of entryway columns shall not exceed three feet in Zoning District C or four feet in Zoning Districts A or B.

(c) Gates included as an element of, or connected to entryways, shall be permitted subject to the following height limitations and exception for the respective zoning district within which they are located:

1. Entryway gates located in Zoning Districts A or B shall not exceed eight feet in height at the highest point.

2. Entryway gates located in Zoning District C shall not exceed six feet in height at the highest point.

3. The dimensions of any such permitted entryway gates shall not be included in the calculated length of the entryway.

(d) Permitted entryway features shall not be subject to yard requirements.

(9) Maintenance and repair of fences, gates and walls. All fences and walls shall be constructed of new or good used materials, and shall be maintained in a state of good repair. Any dilapidated, dangerous or unsightly fences or walls shall be repaired or removed at the expense of the property owner.

(10) Fences, walls, and earthen berms as part of special exceptions. All fences, walls, and earthen berms which are elements of uses authorized by § 155.10(E)(2) and (3) are exempt from the conditions and regulations of § 155.05(J), but are subject to standards and conditions under § 155.10(D)(3) and 155.10(E)(5).

(K) Residential accessory off-street parking standards.

(1) Residential accessory off-street parking and storage areas for, but not limited to, automobiles, campers, trucks, trailers, boats, recreational vehicles, or other vehicles shall be developed and maintained in accordance with this section and § 155.05(H), 155.06(C)(2), and 155.07(C)(2).

(2) Location.

(a) Residential parking lots are subject to accessory structure standards and setback requirements in accordance with § 155.05(H), 155.06(C)(2), and 155.07(C)(2).

(b) Residential accessory off-street parking areas shall only be located on the same lot with the principal structure.

(3) Surfacing. All residential accessory off-street parking areas, including access drives and aisles, shall be surfaced with asphalt, concrete or gravel so as to provide a durable surface.

(4) Required parking space. Vehicles shall be required to park in designated accessory off-street parking areas only. The parking or storage of vehicles on the lawn, or in other areas not designated for parking, for more than a 24 hour period shall be prohibited.

(a) A parking space shall have an area no less than 200 square feet, exclusive of access drives and aisles, and shall be of a usable shape and condition.

(b) A parking space shall be considered a usable shape only if it is located in such a manner that a motor vehicle can gain access to or from said space without requiring the movement of any other motor vehicles.

(5) Residential accessory off-street parking design standards.

(a) All residential accessory off-street parking areas shall be designed in such a way to prevent vehicles from having to back out of the lot onto the lawn and so as to prevent the moving of vehicles to access another.

(b) Parking lot aisles for individual parking spaces shall not be less than 20 feet wide when serving

two rows and not less than 12 feet for one row of parking spaces.

(c) Residential accessory off-street parking areas shall be permitted on the basis of lot acreage. For the first acre of property, no more than 1,200 square feet shall be used for a parking/storage area. For each additional one acre of property, no more than 300 square feet shall be permitted per additional acre for such areas. The total square feet permitted shall include individual parking spaces and access aisles, but shall not include primary access drives to off-street parking areas.

(6) Parking lots as part of special exceptions. All off-street parking areas which are elements of uses authorized by § 155.10(E)(2) and (3) are exempt from the conditions and regulations of § 155.05(K), but shall be subject to the standards set forth in § 155.10(E)(2) and (3) and 155.10(E)(5).

(L) Exterior residential lighting standards.

(1) Permitted exterior residential lighting. All exterior lighting fixtures, installed after the effective date of this division (L), shall be filtered and/or shielded so as to reflect no more than one foot-candle onto any adjacent residential property.

(2) Exterior lighting prohibitions and restrictions. The following additional prohibitions and restrictions shall apply to the installation of exterior residential lighting.

(a) Mercury vapor fixtures and lamps. The installation of any mercury vapor (or other similar vapor) fixture or lamp for use as outdoor lighting is prohibited.

(b) Laser source light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.

(c) Searchlights. The use of searchlights for advertising or entertainment purposes is prohibited.

(d) Recreation facilities. No outdoor recreation facility, public or private, shall be illuminated after 11:00 p.m., except to conclude a specific recreational or sporting event, conducted at or in the facility, which was in progress under such illumination prior to 11:00 p.m.

(e) Outdoor building and landscaping illumination. The unshielded outdoor illumination of any building or landscaping is prohibited except with incandescent fixtures with lamps of 160 watts or less.

(3) Replacement of non-conforming lighting fixtures and lamps. All lighting fixtures and lamps which were installed prior to the effective date of this division (L) must be removed or replaced with conforming fixtures and lamps no later than January 1, 2011.

(80 Code, § 150.05) (Ord. 7-45, § 5, passed 6-5-45; Am. Ord. § 12-75, passed 5-27-75; Am. Ord. 2-84, passed 2-27-84; Am. Ord. 2-99, passed 2-22-99; Am. Ord. 28-04, passed 11-22-04; Am. Ord. 12-08, passed 8-25-08)

§ 155.06 DISTRICT "A" AND "B" REGULATIONS.

(A) Uses permitted - all other uses prohibited.

(1) Principal uses.

(a) One-family dwellings. A dwelling unit within a one-family dwelling which complies or has complied with this chapter because it is or has been occupied by family members or servants, in accordance with § 155.03, shall not be rented, sold or occupied by another person or persons or separate family except in compliance with § 155.03. The Planning Commission is not authorized to make any exceptions to this provision.

(b) Public parks and playgrounds, including concessions therein which may be granted by the village.

(c) Any agricultural use.

(d) Greenhouses and nurseries, provided no part of the premises is used primarily for selling or display for sale.

(e) Special exceptions. Those special exceptions identified in § 155.10, subject to authorization by the Planning Commission in accordance with the procedures and standards established in § 155.10, and such conditions as the Planning Commission may impose in order to minimize potential adverse impacts of the particular exception and to ensure that the exception is consistent with the character of the neighborhood.

(2) Accessory uses.

(a) Home occupations as defined in § 155.03.

(b) The sale of farm products raised on the premises. A sales stand for the display and sale of such products shall be allowed only as a special exception authorized by the Planning Commission in accordance with the procedures and standards established in § 155.10, and subject to such conditions as the Planning Commission may impose in order to minimize potential adverse impacts of the particular exception and to ensure that the exception is consistent with the character of the neighborhood.

- (c) Private garages, tool sheds, wood sheds, picnic shelters and other similar accessory uses.
- (d) Stables, barns, silos and other customary farm structures.
- (e) Signs only as limited and regulated in the following:

1. Highway directional signs; traffic safety signs; standard street designation signs erected and maintained by the village on dedicated streets; and street designation signs for private streets, on which no words other than street name, and having no decoration.

2. Upon displayer's premises, an announcement sign giving only name of premises, name of occupant and occupation, not over two square feet in area, except that public and semi-public institutions may have for their own use an announcement sign or bulletin board not over 12 square feet in area.

3. A real estate sign advertising the sale or lease of only the individual lot (as defined in § 155.03) on which it is to be maintained and not over ten square feet in area.

a. Such sign shall be placed back from every street lot line at least the distance in feet equal to the number of square feet area of the sign, provided that no such sign shall be placed nearer to a street lot line than 25 feet; or need by placed farther than the least depth of the front yard required in the district in which located.

b. Exceptions. Where permanent shrubbery or topography prevent view of sign if placed as required above, approval may be given to a location other than that required under normal conditions.

4. With the approval of the City Manager, signs of architects, builders and contractors of structures being erected, only to notify suppliers of building materials of the place of delivery.

5. With the approval of the City Manager, temporary signs giving directions only to places in the village at which social or community affairs are taking or are to take place.

6. Temporary signage denoting political cause or candidate not over ten square feet in area. Such sign shall be placed back from every street lot line at least the distance in feet equal to the number of square feet area of the sign, provided that no such sign shall be placed nearer to a street lot line than 15 feet; or need to be placed farther than the least depth of the front yard required in the district in which located. Exceptions. Where permanent shrubbery or topography prevents view of sign if placed as required above, approval may be given by the City Manager to a location other than that required under normal conditions.

7. With the approval of the City Manager, one temporary wooden sign, not over 20 square feet in area, indicating the name of a new subdivision and contact information for the purchase of lots may be erected within the new subdivision during the marketing phase of the development. The temporary marketing sign may also be supplemented with individual lot identification signs, not exceeding three square feet in area, depicting each lot number only and/or the name of the lot owner. Such approved signage shall be permitted in lieu of individual real estate signs for each lot in any new subdivision, as provided under division (A)(2)(e)3. of this section. The marketing phase of a development will commence upon the completion of the installation of the first course of asphalt on the roads and extend until 50% of the available lots are sold, or for a maximum of two years, unless such period is extended with the permission of the City Manager. Upon the completion of the marketing phase, only real estate signs, as provided under (A)(2)(e)3. of this section, shall be permitted.

8. Except as set forth in subsections 1. through 7. above, no sign, signboard, billboard, or other advertising media shall be displayed.

9. With the exception of signage permitted under division (A)(2)(e)1. of this section, no other permitted sign shall be constructed with reflective material.

(f) Day care operations, as a special exception subject to authorization by the Planning Commission in accordance with the procedures and standards established in § 155.10, and such conditions as the Planning Commission may impose in order to minimize potential adverse impacts of the particular exception and to ensure that the exception is consistent with the character of the neighborhood, and provided that the principal use of the building is a school or place of worship.

(B) Height limits.

(1) No principal structure shall exceed 40 feet in height, and no accessory structure shall exceed 30 feet in height, except as provided in § 155.08.

(2) Foundation height limit. No foundation wall shall extend more than 30 inches above the average original grade at the front building line.

(C) Required minimum lot area, lot frontage, yards, and distances from lot lines. All structures shall

comply with at least the following minimum requirements, except as provided in § 155.08.

(1) Lot area, lot frontage and yards.

	Dwellings				Places of worship, schools, & Places of Assembly	Other public & public utility structures	Commercial poultry farms, dog kennels	Commercial dairy farms	
	A		B	A	B	A	B	A & B	A & B
Lot Area	5 acres	3 acres	10 acres	10 acres	3 acres	3 acres	15 acres	25 acres	
*Lot Frontage	*250 Feet	*200 Feet	300 Feet	300 Feet	200 Feet	200 Feet	800 Feet	1000 Feet	
Front Yard Depth	100 Feet	100 Feet	100 Feet	100 Feet	100 Feet	100 Feet	See division (C)(2) of this section	See division (C)(2) of this section	
Side Yard Width, Each Side Yard	Equal to the height of the tallest portion of the building located within 40 feet of each side yard line, but not less than 25 feet					Equal to the height of the structure by not less than 50 feet	See division (C)(2) of this section	See division (C)(2) of this section	
Rear Yard Depth	100 Feet	100 Feet	100 Feet	100 Feet	100 Feet	100 Feet	See division (C)(2) of this section	See division (C)(2) of this section	

* Except as noted in § 155.03.

(2) Distances from lot lines.

STRUCTURES IN WHICH FARM ANIMALS ARE KEPT OR PROCESSED				
	Any Lot	Commercial Poultry Farm or Dog Kennel	Commercial Dairy Farm	Other Accessory Structures
From front lot lines	200 feet	300 feet	400 feet	120 feet
From side lot lines	80 feet	300 feet	400 feet	20 feet
From rear lot lines	40 feet	300 feet	400 feet	20 feet

(3) Exceptions.

(a) Wherever existing property is bounded by the centerline of a street or right-of-way and no "front line" is established, a distance of 30 feet shall be added to the "front yard depth" and to the "distance from front lot lines" as required in divisions (C)(1) and (2) of this section, and § 155.07(C)(1) and (2) on all streets except principal village streets, in which case a distance of 40 feet shall be added.

(b) Wherever existing property is bounded by the centerline of a street or right-of-way, "lot areas" for the purpose of this chapter, shall not include the area allotted to said right-of-way. Where no width of the street or right-of-way has been established the effective lot areas shall be the gross acreage less the area occupied by the right-of-way which shall be assumed to be 60 feet in width - except on principal village streets, in which the right-of-way shall be 80 feet.

(D) Lot coverage. All structures, including accessory structures and other impervious surfaces, on any lot, shall not cover in the aggregate more than 20% of the area of the lot.

('80 Code, § 150.06) (Ord. 7-45, § 6, passed 6-5-45; Am. Ord. 12-75, passed 5-27-75; Am. Ord. 2-84, passed 2-27-84; Am. Ord. 13-85, passed 10-21-85; Am. Ord. 24-89, passed 9-25-89; Am. Ord. 18-00, passed 11-20-00; Am. Ord. 04-06, passed 1-30-06)

§ 155.07 DISTRICT "C" REGULATIONS.

(A) Uses permitted - all other uses prohibited.

(1) Principal uses.

(a) All uses permitted and as regulated in District "A" and District "B", including gardening, the

raising of crops, vegetables, flowers, shrubs or trees, and grazing.

(b) Other types of agriculture which are not incidental and accessory to a principal residential use, provided that the lot has an area of three acres or more.

(c) Special exceptions. Those special exceptions identified in § 155.10 subject to authorization by the Planning Commission in accordance with the procedures and standards established in § 155.10, and any conditions the Planning Commission may require thereunder in order to minimize potential adverse impacts of the particular exception and to ensure that the exception is appropriate at the particular location.

(2) Accessory uses.

(a) All accessory uses permitted and as regulated in District "A" and District "B". This includes sales stands for the display and sale of farm products, and day care operations where the principal use of the building is a school or place of worship, as special exceptions subject to authorization by the Planning Commission in accordance with the procedures and standards established in § 155.10 and such conditions as the Planning Commission may impose in order to minimize potential adverse impacts of the particular exception and to ensure that the exception is consistent with the character of the neighborhood.

(b) Home occupations as defined in § 155.03.

(c) The keeping of not more than two roomers or boarders by a resident family unless employed on the premises.

(d) Agricultural uses and structures incidental to a principal residential use.

(B) Height limits.

(1) No principal structure shall exceed 40 feet in height, and no accessory structure shall exceed 30 feet in height, except as provided in § 155.08(B).

(2) Foundation height limit. No foundation wall shall extend more than 30 inches above the average original grade at the front building line.

(C) Required minimum lot area, lot frontage, yards, and distances from lot lines. All structures shall comply with at least the following minimum requirements, except as provided in § 155.08.

(1) Lot area, lot frontage and yards.

	<i>Dwellings</i>	<i>Places of Worship, Schools, & Places of Assembly</i>	<i>Other Public and Public Utility Structures</i>
Lot Area	1 Acre	10 Acres	3 Acres
*Lot Frontage	150 Feet	300 Feet	200 Feet
Front Yard Depth	75 Feet	75 Feet	100 Feet
Side Yard Width, Each Side Yard	Equal to the height of the tallest portion of the building located within 40 feet of each side yard line, but not less than 20 feet	Equal to height of building but not less than 50 Feet	
Rear Yard Depth	75 Feet	100 Feet	100 Feet

*Except as noted in division (2) of the definition of **LOT LINE, FRONT** in § 155.03.

(2) Distances from lot lines.

	<i>Structures in Which Farm Animals are Kept or Processed</i>	<i>Other Accessory Structures</i>
From Front Lot Lines	175 feet	90 feet
From Side Lot Lines	40 feet	15 feet
From Rear Lot Lines	20 feet	15 feet

(D) Lot coverage. All structures, including accessory structures and other impervious surfaces, on any lot, shall not cover in the aggregate more than 25% of the area of the lot.

(80 Code, § 150.07) (Ord. 7-45, § 7, passed 6-5-45; Am. Ord. § 16-70, passed 6-29-70; Am. Ord. 2-84,

passed 2-27-84; Am. Ord. 24-89, passed 9-25-89; Am. Ord. 04-06, passed 1-30-06)

§ 155.08 EXCEPTIONS AND MODIFICATIONS.

(A) Lot of record. On any lot of official record, as defined in § 155.03, at the time of the enactment of this chapter, even though a smaller area and/or frontage than required by this chapter in the district in which it is located, a one-family dwelling with its customary accessory structures may be authorized by the Planning Commission provided that the owner of the lot does not own any adjacent land and provided that all structures are so designed and located as to conform as closely as possible to the yard and distance from lot lines requirements of this chapter for the district in which the lot is located.

(B) Height exceptions. The height limits of this chapter shall not apply:

(1) To church spires, monuments, observation towers, windmills, smoke stacks, derricks, flag poles, radio towers and aerials, water towers, transmission towers or other similar public utility structures.

(2) To barns, silos and other farm structures.

(C) Front yard exceptions.

(1) (a) When an application for a building permit is made to construct a new residence between two existing residences on the same side of the street, where such existing residences are 500 feet or less from each other, the minimum depth of the front yard of such new residence shall be: (1) the average depth of the existing front yards of such existing buildings; or (2) the required set back for the districts in which the applicant's lot is located, whichever is the greater distance.

(b) If the applicant desires to locate such proposed residence at any other location, the applicant shall make an application to the Planning Commission to otherwise locate such proposed residence. Upon such application and in order to assure orderly development of the land and provide for the health and safety of the community the Planning Commission shall take into consideration all relevant factors bearing upon the proper location of such proposed residence including, but not limited to, the location of existing residences, the date and time such residences were created, the conformity to the front yard requirements of the area in which the lot is located, the terrain of adjoining lots and locations of buildings thereon, the character and other features of applicant's proposed residence, and probable locations of other proposed residences on the same side of the street and any undue hardship which may result from requiring the front yard depth to be as above provided. If the application to otherwise locate such proposed residence is denied such residence shall be located as above provided in division (C)(1)(a) of this section.

(c) Replacement residences. As long as the existing front yard setback meets or exceeds the minimum front yard setback for the district in which the applicant's lot is located, the provisions set forth in division (C)(1)(a) of this section shall not apply in the case of an application to replace an existing residence with a new residence located at the same front yard setback as the existing residence.

(2) Steps, terraces and uncovered porches may be erected in any front yard, except on corner lots as provided in § 155.05(H).

(D) Side yard exceptions. Steps, terraces and uncovered porches may be erected within any side yard, except on corner lots as provided in § 155.05(H).

(E) Rear yard exceptions. Steps, terraces and uncovered porches may be erected within any rear yard.

(F) Green area development.

(1) In the case of a development for dwellings on a lot or parcel of land in District "A" when the owner or developer conveys or agrees to convey 2/5 or less of said lot or parcel to Indian Hill as Trustee of and under The Green Areas and Recreational Fund of Indian Hill, as promulgated by ordinance, the Planning Commission may grant a special exception in accordance with the provisions of § 155.10(D)(2) to permit lot sizes of three acres or more provided no greater number of dwellings shall be allowed than would be allowed under § 155.06(C)(1) for the entire lot if developed under § 155.06(C)(1) without benefit of this section, and provided, further, that all other requirements for District "A" set forth in this chapter and in the Subdivision Regulations (Ordinance No. 19-45, as amended) shall be complied with.

(2) In the case of a development for dwellings on a lot or parcel of land in District "B" when the owner or developer conveys or agrees to convey 1/3 or less of said lot or parcel to Indian Hill as Trustee of and under The Green Areas and Recreational Fund of Indian Hill as promulgated by ordinance, the Planning Commission may grant a special exception in accordance with the provisions of § 155.10(D)(2) to permit lot sizes of two acres or more provided no greater number of dwellings shall be allowed than would be allowed under § 155.06(C)(1) for the entire lot if developed under § 155.06(C)(1) without benefit of this section, and provided, further, that all other requirements for District "B" set forth in this chapter and in the Subdivision

Regulations (Ordinance No. 19-45, as amended) shall be complied with.

(3) In applying the foregoing principles to a subdivision, the Planning Commission may approve a division of all the land in the subdivision so that of the total of the land of a subdivision lying in District "A", up to 40% of that land may be conveyed to the village as Trustee of The Green Areas and Recreational Fund of Indian Hill; and of the total of the land of a subdivision lying in District "B", up to 33-1/3 of that land may be conveyed to the village as Trustee of The Green Areas and Recreational Fund of Indian Hill. Of the remaining land, there shall be no greater number of lots than would otherwise be permitted on that land were it not for the gift of land for green areas. All lots of that subdivision shall have a minimum size of three acres in District "A", or two acres in District "B". All the lots shall conform to the lot lines and set back requirements of the respective districts. Gifts to the Green Areas Fund shall be contiguous to the subdivision and within the village. Approval shall be in compliance with Chapter 154 (Subdivision Regulations).

(4) In carrying out and administering the foregoing, the Planning Commission may give such other permissions or attach such other conditions as may be desirable or necessary in its discretion to preserve the character of the neighborhood in which the use of this chapter is sought to promote the purposes of the Charter and of this chapter. In the opinion of Council, this chapter is more useful to effectuate the open space and green area policies of the village when large lots or parcels of land are involved and particularly in areas adjacent to open spaces and green areas already in the public land of the village.

('80 Code, § 150.08) (Ord. 7-45, § 8, passed 6-5-45; Am. Ord. 7-70, passed 4-6-70; Am. Ord. 2-84 passed 2-27-84; Am. Ord. 13-85, passed 10-21-85; Am. Ord. 2-99, passed 2-22-99; Am. Ord. 17-06, passed 9-28-06)

§ 155.09 ENFORCEMENT.

(A) Enforced by City Manager. It shall be the duty of the City Manager to enforce this chapter in accordance with the administrative provisions herein set forth.

(B) Site clearance and building permit required. It shall be unlawful to commence the excavation for, or the construction or the moving or alteration of any structure, until a site clearance shall have been obtained for such work from the City Manager and a building permit shall have been obtained from the Hamilton County Building Commissioner. Application for a site clearance shall be made in writing to the City Manager in such form as may be prescribed by him or her. Said site clearance shall expire by limitation when no building construction is started within six months from date of issuance.

(C) Approval of plans and issuance of site clearance.

(1) The City Manager shall not issue such site clearance until he or she has inspected the plans in detail and found them to be in conformity with the provisions of this chapter. To this end, the City Manager shall require that all site clearance applications for a new structure or major alteration be accompanied by plans drawn to scale and submitted in duplicate and that they show:

(a) Actual shape, location and dimensions of the lot to be built upon.

(b) The shape, size and location of all buildings or other structures to be erected, altered, or moved and of any structure already on the lot.

(c) The existing and intended use of all such buildings or other structures.

(d) Drawings or sketches of the front, sides and rear elevations of the proposed building, or of the building as this will appear after the work for which the permit is sought shall have been completed.

(e) Such other information concerning the lot or adjoining lots as may be necessary for determining whether the provisions of this chapter are being observed.

(2) All dimensions on these plans relating to the location and size of the lot to be built upon, and of any structures already on the lot, shall be based on an actual survey if the site clearance sought is for a principal structure, and when deemed necessary by the City Manager if for an accessory structure. The lot and the location of the proposed structure thereon shall be staked out on the ground before excavation or construction is started.

(3) One copy of such plans shall be retained by the City Manager and one copy returned to the applicant when such plans shall have been approved by him, together with such site clearance as may be granted.

(4) If the proposed excavation, construction or alteration as set forth in the application for a site clearance, conforms with the provisions of this chapter, the City Manager shall issue a site clearance for such work. If a site clearance is refused, the City Manager shall state such refusal and cause therefore in writing. Any person aggrieved by such action may appeal to the Planning Commission for relief as hereinafter provided.

(5) No site clearance shall be issued until a fee of \$25 shall have been paid. No fee shall be required for projects for which the estimated cost does not exceed \$2,000.

(D) Conformance. It shall be the duty of the City Manager to make a final inspection to be satisfied that the structures or premises and the proposed use thereof conform with all the requirements of this chapter. Under such rules and regulations as may be established by him or her, the City Manager may issue a temporary certificate of compliance for such construction or alteration.

(E) Remedies. In case any structure is or is intended to be erected, constructed, reconstructed, altered, converted, moved or maintained, or any structure or land is or is intended to be used, in violation of the provisions of this chapter, the City Solicitor, in addition to the remedies provided for in the Statutes of the State of Ohio and this chapter, is hereby authorized to institute an appropriate action or proceeding in law or equity to prevent such unlawful erection, construction, reconstruction, alterations, conversion, moving, maintenance or use, or to restrain, correct or abate such violation.
(’80 Code, § 150.09) (Ord. 7-45, § 9, passed 6-5-45; Am. Ord. 2-84, passed 2-27-84; Am. Ord. 24-04, passed 9-27-04)

§ 155.10 ADMINISTRATION.

Planning Commission. The functions and powers of the Planning Commission for the purposes of this chapter, shall be as follows:

(A) General.

(1) The Commission shall have power to adopt rules and regulations for its own government, not inconsistent with law or with the provisions of this chapter, and of any other ordinance of the village.

(2) Meetings of the Commission shall be held at the call of the chairman and at such other times as the Commission may determine. The chairman, or in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

(3) Hearings of the Commission shall be public. The Commission shall keep minutes of its proceedings, showing the action of the Commission and the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the village office, and shall be a public record.

(4) The presence of three members shall constitute a quorum.

(5) The Commission shall act by resolution. The concurring vote of three members of the Commission shall be necessary to reverse any order, requirement, decision or determination of the City Manager, or to decide in favor of the applicant any matter upon which it is required to pass under this chapter, or to grant a special exception or a variance under the provisions of this chapter.

(B) Applications and appeals.

(1) An application to the Commission, in cases in which it has original jurisdiction under the provisions of this chapter, may be taken by any property owner, including a tenant, or by a governmental official, department, board or bureau.

(2) Such application shall be filed with the City Manager who shall transmit the same, together with all the plans, specifications and other papers pertaining to the application, to the Commission.

(3) An appeal to the Commission may be taken by any property owner, including a tenant, or by a governmental official, department, board or bureau affected by any ruling of the City Manager.

(4) Such appeal shall be taken within 30 days from the date of the ruling by the City Manager, by filing with the City Manager and with the Commission, a notice of appeal specifying the grounds thereof. The City Manager shall forthwith transmit to the Commission all the plans and papers constituting the record upon which the action appealed from was taken.

(5) Upon receipt of the notice of appeal and the transmittal of the record from the City Manager, the Commission shall, within 60 days, hold a hearing of the appeal. Any party may appear at such hearing in person or by agent or by attorney. The Commission shall give its decision upon such an appeal within 30 days from the close of the hearing.

(C) Appeals to Council.

(1) An appeal to the Council may be taken by any property owner, including a tenant, or by a governmental official, department, board or bureau affected by any ruling of the Planning Commission.

(2) Such appeal shall be taken within 30 days from the date of the ruling by the Commission, by filing with the Commission and the Council a notice of appeal specifying the grounds thereof. The Commission shall forthwith transmit to Council all the plans and papers constituting the record upon which the action

appealed from was taken.

(3) Upon receipt of the notice of appeal and the transmittal of the record from the Commission, the Council shall, within 60 days, hold a hearing of the appeal. Any party may appear at such hearing in person or by agent or attorney. The Council shall give its decision upon such an appeal within 30 days from the close of the hearing.

(D) Special exceptions.

(1) Authority and purpose. The Commission, in accordance with the procedures and standards set forth below, shall have the power to grant special exceptions to the district regulations of this chapter. Special exceptions are uses which are generally compatible with the other land uses permitted in a given zoning district, but which, because of their potential adverse impact on the use and enjoyment of nearby properties, require individual review of their location, site design, and/or operation, and the imposition of such conditions as the Commission may deem necessary in order to minimize potential adverse impacts of the particular exception and to ensure that the exception is consistent with the character of the neighborhood.

(2) Special exceptions authorized.

(a) Only the uses identified in this section shall be allowed as special exceptions, provided that they meet the standards established in this section. Except as otherwise stated below, the following uses may be established as a special exception in any district:

1. The conversion or use of any accessory building for a separate family use if:
 - a. The existing or proposed dwelling meets or is made to meet all applicable provisions of the village Building Code;
 - b. Such dwelling and all other existing buildings and use on the same premises meet or are made to meet all applicable provisions of this chapter;
 - c. Vehicular access adequate, in the opinion of the City Manager, for ready access and safe use by fire fighting equipment and other public service vehicles is provided;
 - d. Such dwelling is rented by the owner when the owner is residing on the same premises;
 - e. It is agreed by the owner at the time of any application therefore, that any sale of such dwelling and later division of premises shall be subject to approval by the Planning Commission in accordance with provisions of the village Subdivision Regulations; and
 - f. The total area of land on which the accessory building and the principal dwelling are located is sufficient for both buildings to meet the acreage requirements of this Zoning Ordinance for the District in which said buildings are located, if the accessory building is later sold.
2. Schools with a 20% minimum enrollment of students who reside within the village, places of worship, places of public assembly and village municipal offices and uses, including fire stations operating under a contract with the village.
3. Golf courses and tennis courts, all of a non-commercial nature.
4. Public utility uses without service or storage yards, and accessory uses or structures thereto.
5. Cemeteries adjacent to, or in extension of existing cemeteries, all of a non-commercial nature.
6. Extraction of earth products, all of a non-commercial nature.
7. Commercial poultry farms, dog kennels, dairy farms, and horse boarding farms. However, such uses shall not be permitted as special exceptions in the "C" District.
8. Stands for the display and sale of farm products raised on the premises, as an accessory use.
9. Day care operations, as an accessory use provided that the principal use of the building is a school or place of worship.
10. The substitution for a non-conforming use of another non-conforming use which, in the opinion of the Commission, is of the same or less objectionable nature in respect to its effect on the neighborhood, provided no structural alterations, except as are required by law or ordinance, are made in any structure.
11. The extension of a non-conforming use of land or non-conforming use throughout a structure manifestly designed for such use, provided no structural alteration, except such as are required by law or ordinance, are made therein.
12. The temporary use of a structure or of land in any district for a purpose or use which does not conform to the regulations prescribed by this chapter for the district in which it is located, provided that such use be of a true temporary nature and does not involve the erection of substantial structures. A permit for such temporary use shall be revocable and for not more than a period of 12 months, subject to such conditions as will safeguard the public health, safety, convenience, comfort, morals and general welfare.

13. The special exception hereinbefore specified in § 155.08(F).

(b) The listing or designation of a special exception above does not constitute an assurance or presumption that such special exception will be approved. Rather, each proposed special exception shall be evaluated by the Commission on an individual basis, in relation to its compliance with the standards and conditions set forth in this section and with the standards for the district in which it is located, in order to determine whether approval of the special exception is appropriate at the particular location and in the particular manner proposed.

(3) Standards for special exceptions; additional conditions.

(a) Standards. The Commission shall not grant a special exception unless, in each case, it makes written findings of fact and conclusions, directly based on and supported by the particular evidence presented to it in the application and at the hearing, that the proposed special exception meets each of the following standards:

1. The establishment, maintenance or operation of the special exception will not be detrimental to or endanger the public health, safety, convenience, comfort, morals or general welfare;

2. The special exception is not inconsistent with the village's adopted Land Use Objectives and Policies;

3. The special exception, either alone or in conjunction with other special exceptions previously granted or otherwise existing, will not injure, diminish, or impede the use, enjoyment, or normal and orderly development of other property in the immediate vicinity for uses permitted in the zoning district;

4. The special exception is consistent with the residential character of the immediate vicinity of the parcel proposed for development;

5. The special exception will not substantially diminish or impair property values within the neighborhood;

6. Adequate utilities, drainage, wastewater treatment, and/or other facilities necessary to serve the proposed special exception already exist or will be provided;

7. Adequate access roads, entrance and exit drives, and off-street parking spaces already exist or will be provided and designed so as to prevent traffic safety hazards, to minimize traffic conflicts and congestion in the streets, and to maintain the rural residential character of existing roadways in the village, without requiring improvements that will increase the capacity of existing roadways or will encourage their use by through traffic;

8. The special exception will not adversely affect a known archaeological, historical or cultural resource;

9. The applicant has represented to the Commission that it has the capacity to complete, maintain and operate the special exception as proposed and approved, and has made or will make adequate legal provision to guarantee the provision and development of any buffers, landscaping, public open space and other improvements associated with the proposed development;

10. The special exception shall in all other respects conform to the applicable regulations of the zoning district in which the property is located, except where the Planning Commission in a particular case grants a variance from the regulations pursuant to this section, or, if the regulations are of a type that may not be varied under this section, where the Council in a particular case waives or modifies the regulations pursuant to the recommendation of the Commission;

11. All exterior lighting fixtures will be designed, directed or shaded so that no direct light is cast upon any other property; and all driveways and off-street parking areas will be designed and screened to minimize the illumination of adjacent residential properties by automobile headlamps; and

12. All buildings and structures located within 25 feet of the minimum front yard, side yard or rear yard required under § 155.06(C) or § 155.07(A) will be screened by landscaping of a type, nature and seasonal character that will ensure the privacy of adjacent dwellings and will ensure that the visual character of the use will be compatible with surrounding uses; and all accessory outdoor storage areas, mechanical equipment and waste disposal facilities will be screened from the view of adjacent dwellings.

(b) Conditions. The Commission may attach to the approval of a special exception such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special exception as the Commission deems necessary to secure compliance with the standards set forth in this section and to carry out the purposes of this chapter. Such conditions may include, but are not limited, to the following: requiring larger yard depths for buildings, structures or parking areas; requiring or placing

restrictions on landscaping, signage or outdoor lighting; requiring the provision of adequate ingress, egress or off-street parking; limiting the duration of the approval of the special exception; limiting hours and frequency of operation of the use; and requiring measures to mitigate the impacts of the special exception on the natural environment.

(4) Application for special exception. Any person owning or having an interest in property may file an application in regard to such property with the City Manager for one or more of the special exceptions defined in division (D) of this section. An application for a variance may be filed as specified in this section in conjunction with the application for a special exception, with respect to which the Commission may grant relief, subject to the standards and procedures set forth in this section. The application for a special exception shall contain the following information, where applicable:

(a) The name and address of the applicant. If the applicant will not conduct the use for which a special exception is sought, the name and address of the individual, corporation, partnership, association, or other organization who or which will conduct the use. If the applicant is not the sole owner of the property, the names of other persons having a proprietary interest in the property.

(b) A statement of ownership.

(c) A list of permits or licenses from the village or any federal, county, municipal or state agency or any other governmental unit that are required for the use for which a special exception is sought. If such a permit or license is required, the applicant shall submit with the application a copy of such other permit or license, or a statement why such permit or license is not available.

(d) Eight copies of a site plan drawn to such scale as the Commission shall, by rule, require that shows the actual dimensions of the subject property according to the recorded plat of such property, including contour lines; all significant vegetation and other significant natural environmental features on the property; the use, height, location and ground area of all present and proposed buildings and structures; the location of all vehicular entrances to and exits from the property; the location of all off-street parking areas and number of spaces provided therein; the number, type, size and location of all present and proposed signs; and the existing district classification of the property.

(e) The hours during which the applicant proposes to conduct the use for which a special exception is sought, and the estimated number of persons who will be employed in relation to that use.

(f) An explanation of how the requested special exception conforms to each of the standards set forth in division (E) of this section.

(g) A statement regarding the number and types of vehicles which will be used in connection with the use for which a special exception is sought.

(h) A statement of whether flammable or explosive materials will be used or stored on the property.

(i) A statement of the impact of the proposal upon significant natural environmental features on the property; the methods proposed to preserve significant natural environmental features on the property; and the adverse environmental impacts which cannot be avoided should the special exception be granted.

(j) A statement as to the type of all exterior lights. If such illumination is proposed, the location of such lights should be clearly marked upon the site plan.

(k) A statement as to the nature and type of utility and drainage facilities which will be provided.

(l) A statement as to the type of vegetation and landscaping to be used for screening the proposed use from nearby properties. In addition, the location of such vegetation and landscaping shall be clearly marked upon the site plan.

(m) The names and addresses of all owners of property adjacent to each property line of the property.

(n) Such additional other information as the Commission may, by rule, require.

(5) Hearing of application for special exception. Upon receipt by the City Manager of a complete application for a special exception, the City Manager shall notify the Commission which shall, within 60 days, hold a public hearing.

(a) Notice.

1. Notice of the time and place of the hearing by the Planning Commission of an application for a new special exception, or the extension of an existing special exception use to an adjacent property, shall be published at least once, not less than 30 days before the hearing, in a newspaper of general circulation in the village and in the Village Bulletin. In the event that the Village Bulletin schedule will not accommodate the timely publishing of a notice, the applicant may substitute a direct mailing of the notice, postmarked not less than 30 days before the hearing, in place of the required Bulletin notice. Any such mailing shall be

accomplished under the direction of the City Manager, using the Village Bulletin mailing list.

2. In addition to the required general notice, the City Manager shall provide a direct notice, postmarked not less than 14 days before the hearing, to all property owners and residents within 500 feet of the property for which the special exception is being sought. Such notice shall be made by First Class mail and the City Manager shall maintain a certified record of all notices mailed to parties of interest.

3. Section 155.08(F) application. The notice of the time and place of the hearing by the Commission of an application for a special exception described in § 155.08(F) shall be published at least once, not less than 14 days before the hearing, in a newspaper of general circulation in the village.

4. In addition to the required general notice, the City Manager shall provide a direct notice, postmarked not less than 14 days before the hearing, to all property owners and residents within 500 feet of the property for which the special exception is being sought. Such notice shall be made by First Class mail and the City Manager shall maintain a certified record of all notices mailed to parties of interest.

(b) Conduct of hearing. Any person who satisfies the Chairman of the Commission that he or she has a significant interest in the subject matter of the hearing shall be afforded an opportunity to present evidence and argument, and to question through the Chairman witnesses on all relevant issues, subject to the Chairman's imposition of reasonable limitations on the number of witnesses, and the nature and length of testimony in questioning. All testimony at the hearing shall be under oath administered by the Chairman, or by affirmation. The Commission shall make a full and complete record of the hearing, by any appropriate means. In the event of the filing of a judicial complaint challenging the Commission's decision, the record shall be transcribed on order of the Chairman of the Commission. If a sound recording is made, any person, upon request made to the City Manager, shall have the opportunity to listen to the recording at any reasonable time.

(c) Communication outside of the hearing. Members of the Commission shall base their consideration of the application for a special exception only upon the following information and evidence:

1. Testimony and argument presented at the hearing, and not upon direct or indirect communication with any party or representative of such party made outside of the hearing;

2. Reports, memoranda and other materials prepared by the City Manager in connection with the application and made a part of the record at the time of the hearing; and

3. Inspections of the site when all interested parties or their representatives are present, or when no such parties or their representatives are present.

(6) Findings of fact required; decisions and records. The Commission shall render a written decision on the application for a special exception setting forth findings of fact and conclusions, in relation to specific sections of this chapter, together with the reasons for its decision. Such written decision shall be communicated to the applicant within 30 days from the close of the hearing. The City Manager shall maintain complete records of all actions of the Commission with respect to applications for special exceptions and shall notify the Council of the Commission's actions.

(7) Period of validity. No special exception granted by the Commission shall be valid for a period greater than six months from the date on which the Commission grants the special exception, unless within such time period, a building permit is obtained and the construction, moving or remodeling of a building or structure on the property is commenced, or a Certificate of Occupancy is obtained and use commenced. The Commission may for good cause, without notice of hearing, grant a maximum of two extensions not exceeding six months each upon written application by the property owner.

(8) Continuing jurisdiction of Planning Commission; reconsideration and revocation.

(a) Uses authorized by the Commission as special exceptions shall be subject to the continuing jurisdiction of the Commission and all future applications for site clearance shall be approved by the Commission before the issuance of a site clearance, and no changes in the use as authorized by the Commission shall be made without permission of the Commission.

(b) Where provided as a condition to approval of the special exception, the Commission may periodically, but no more than annually, review the effectiveness of the conditions that have been attached to the approval, in light of the maintenance and operation of the special exception, and may modify the conditions that have been attached, or may add additional conditions as are necessary, in order to carry out the purposes of this chapter and to prevent or minimize adverse effects upon other property in the neighborhood. However, no such modifications or additional conditions shall be imposed without a hearing and findings by the Commission carried out in accordance with divisions (D)(5) and (6) above.

(c) Where the Commission determines that any condition attached to the approval of the special exception has been violated or not fulfilled, then the approval shall be revoked and the use shall be deemed in violation of this chapter, subject to the penalties and remedies set forth in divisions (E) and (F) of this section. However, no such revocation or action to impose penalties or remedies shall occur until after the Commission has held a public hearing, noticed and conducted in accordance with divisions (D)(5) and (6) of this section, for the purpose of determining whether such condition has in fact been violated or not fulfilled.

(d) Notice. Prior to the consideration of any action of the Planning Commission, as set forth in division (D)(8)(a) through (c), the City Manager shall provide a direct notice, postmarked not less than 14 days before the hearing, to all property owners and residents within 500 feet of the property for which the special exception is being sought. Such notice shall be made by First Class mail and the City Manager shall maintain a certified record of all notices mailed to parties of interest.

(E) Variances.

(1) Purpose. The Commission, upon application, shall have the power to grant variances from the provisions and requirements of this chapter which will not be contrary to the public interest or the general purpose and intent of this chapter, only in those specific instances defined in division (E)(2), based upon the standards set forth in division (E)(3) where, owing to special conditions of a lot, strict enforcement of the provisions or requirements of this chapter would cause undue hardship or exceptional practical difficulty, or would conflict with the village's adopted land use objectives and policies.

(2) Variances authorized. Variances from the provisions and requirements of this chapter shall be granted by the Commission only in accordance with the standards established in division (E)(3) and shall be limited to the following circumstances and no others:

(a) To vary the applicable bulk regulations for buildings and structures, including maximum height, lot coverage, required yard areas and other required open space.

(b) To vary the applicable minimum requirements for lot frontage and distances from lot lines.

(c) To vary the applicable minimum requirements for lot frontage and distances from lot lines in conjunction with the grant of a special exception pursuant to § 155.08(F) of this chapter.

(3) Standards for variances. The Commission shall not grant a variance as authorized in division (E)(2) unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it which support written conclusions that:

(a) The variance requested arises from physical conditions of the lot which are very unusual, that is, conditions which are rarely found in the same district and the conditions are created by the provisions or requirements of this chapter and not by an action or actions of the property owner or the applicant, such that the literal interpretation of the chapter would deprive the property owner or the applicant of rights commonly enjoyed by other properties in the same district;

(b) The particular physical surroundings, shape, or topographical condition of the specific property involved would cause undue hardship or exceptional practical difficulty for the owner, lessee or occupant, as distinguished from a mere inconvenience, or would conflict with the village's adopted land use objectives and policies, if the provisions of this chapter were strictly enforced;

(c) The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the village streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood; and

(d) The variance desired will not conflict with the general purpose and intent of this chapter.

(e) The Commission may impose such conditions and restrictions upon the property benefited by a variance as the Commission may deem necessary to comply with the standards set fourth in this section, to reduce or minimize the impact of such variance upon other property in the neighborhood and to further the purpose and intent of this chapter.

(4) Application for variance. Any person owning or having an interest in property may file an application in regard to such property with the City Manager for one or more of the variances authorized in division (E)(2). The application shall contain the following information and such additional information as the Commission may, by rule, require:

(a) The particular provisions or requirements of this chapter by section which prevent the proposed construction on the property.

- (b) The existing district classification of the property.
- (c) The special conditions, circumstances or characteristics of the land, building or structure that prevent compliance with the requirements of this chapter.
- (d) The extent to which it would be necessary to modify the requirements of this chapter in order to permit the proposed construction on the property.
- (e) A statement of the impact of the proposal upon significant natural environmental features on the property; the methods proposed to preserve significant natural environmental features on the property; and the adverse environmental impacts which cannot be avoided should the variance be granted.
- (f) An explanation of how the requested variance conforms to each of the standards set forth in division (E)(3).
- (g) The names and addresses of all owners of property adjacent to each property line of the property.
- (h) Eight copies of a site plan drawn to such scale as the Commission shall, by rule, require showing the actual dimensions of the property according to the recorded plat of such property, including contour lines; all significant vegetation and other significant natural environmental features on the property; the use, height, location and ground area of all present and proposed buildings and structures; the location of all vehicular entrances to and exits from the property, the location of all off-street parking areas and number of spaces provided therein; the building lines in relation of lot lines; the number, type, size and location of all present and proposed signs, if any.

(5) Hearing of variance application. Upon receipt by the City Manager of a complete application for a variance, the City Manager shall notify the Commission, which shall, within 60 days, hold a public hearing.

(a) Notice. Notice of the time and place of the hearing by the Commission of an application for a variance shall be published at least once, not less than 30 days before the hearing, in a newspaper of general circulation in the village, and where practical, in the Village Bulletin. In addition, the City Manager shall provide a direct notice, postmarked not less than 14 days before the hearing, to all property owners and residents within 500 feet of the property for which the variance is being sought. Such notice shall be made by First Class mail and the City Manager shall maintain a certified record of all notices mailed to parties of interest.

(b) Conduct of hearing. Any person who satisfies the Chairman of the Commission that he or she has a significant interest in the subject matter of the hearing shall be afforded an opportunity to present evidence and argument, and to question through the Chairman witnesses on all relevant issues, subject to the Chairman's imposition of reasonable limitations on the number of witnesses, and the nature and length of testimony in questioning. All testimony at the hearing shall be under oath administered by the Chairman, or by affirmation. The Commission shall make a full and complete record of the hearing, by any appropriate means. In the event of the filing of a judicial complaint challenging the Commission's decision, the record shall be transcribed on order of the Chairman of the Commission. If a sound recording is made, any person upon request made to the City Manager, shall have the opportunity to listen to the recording at any reasonable time.

(c) Communications outside of the hearing. Members of the Committee shall base their consideration of the application for variance only upon the following information and evidence:

1. Testimony and argument presented at the hearing, and not upon direct or indirect communication with any party or representative of such party made outside of the hearing;
2. Reports, memoranda and other materials prepared by the City Manager in connection with the application and made a part of the record at the time of hearing; and
3. Inspections of the site when all interested parties or their representatives are present, or when no such parties or their representatives are present.

(6) Findings of fact required; decisions and records. The Commission shall render a written decision on the application for variance setting forth findings of fact and conclusions, in relation to specific sections of this chapter, together with the reasons for its decision. Such written decision shall be communicated to the applicant within 30 days from the close of the hearing. The City Manager shall maintain complete records of all actions of the Commission with respect to applications for variances and shall notify the Council of the Commission's action.

(7) Period of validity. No variance granted by the Commission shall be valid for a period greater than six months from the date on which the Commission grants the variance, unless within such time period, a building permit is obtained and the construction, moving or remodeling of a building or structure on the

property is commenced. The Commission may for good cause, without notice or hearing, grant a maximum of two extensions not exceeding six months, each upon written application by the property owner.

(F) Interpretation of zoning map - Where the street or lot layout actually on the ground, or as officially recorded, differs from the street and lot lines as shown on the zoning map, the Commission shall have the power, after notice to the owners of the properties involved and after public hearing, to interpret the zoning map in such a way as to carry out the intent and purposes of this chapter for the particular location in question.

(G) Determination by the Commission.

(1) Notwithstanding the provisions of this chapter in the event the City Manager determines that a site clearance, if issued, would be inimical to the public interest because it adversely effects the public health, safety or welfare even though such application technically complies with this chapter, he or she shall refer said application to the Commission for its determination.

(2) The City Manager's determination shall be in writing and shall be accompanied by a statement of facts and other relevant factors upon which his or her determination was made. The Commission, after review of the matter and after affording a hearing to the applicant, if requested, may affirm, modify or reverse such determination of the City Manager.

('80 Code, § 150.10) (Ord. 7-45, § 10, passed 6-5-45; Am. Ord. 7-70, passed 4-6-70; Am. Ord. 2-84, passed 2-27-84; Am. Ord. 13-85, passed 10-21-85; Am. Ord. 24-89, passed 9-25-89; Am. Ord. 15-02, passed 8-26-02; Am. Ord. 14-03, passed 9-29-03)

§ 155.11 LEGAL ACTION DEFERRED.

No legal action shall be brought by any person who purports to have a cause for grievance by reason of the terms of this chapter unless and until such person has exhausted the administrative remedies provided herein ('80 Code, § 150.11) (Ord. 7-45, passed 6-5-45, § 11)

§ 155.12 DISTRICT CHANGES AND ORDINANCE AMENDMENTS.

(A) Purpose and authority. For the purposes of promoting the public health, safety, convenience, comfort, prosperity, morals and general welfare, preserving property values throughout the village and minimizing or preventing traffic congestion in the public streets, the Council may from time to time amend by ordinance the regulations imposed and the districts established by this chapter. No such amendment shall be adopted except in accordance with the procedure set forth in divisions (B) through (F) below.

(B) Initiation of amendment. Amendments may be proposed by the Council, the Planning Commission or by a person owning or having an interest in property in the village, in the manner and pursuant to the procedure set forth in division (C) below. If the Council initiates an amendment, its proposal shall be transmitted to the Planning Commission for the Commission's report and recommendation pursuant to division (D).

(C) Application of amendment. Any person owning or having an interest in property may file an application for a text amendment or a change in district classification with the Chairman of the Planning Commission through the City Manager. Prior to submittal of an application, the applicant may informally discuss the proposed amendment with the City Manager. However, no statement or representation that is made with respect to such proposal shall be binding upon the Planning Commission, the Council or any village official. The application for amendment shall contain the following information where applicable:

(1) The name and address of the applicant. If the applicant is not the sole owner of the property, the names and addresses of other persons having a proprietary interest in the property.

(2) A statement of ownership.

(3) The legal description of the property proposed to be reclassified.

(4) Eight copies of a site plan drawn to such scale as the Commission shall, by rule, require that shows the actual dimensions of the subject property according to the recorded plat of such property, including contour lines; all significant vegetation and other significant natural environmental features on the property; the use, height, location and ground area of all present and proposed buildings and structures; the location of all vehicular entrances to and exits from the property, the location of all off-street parking areas and number of spaces provided therein; the number, type, size and location of all present and proposed signs; and the existing district classification of the property.

(5) A statement of the impact of the proposal upon significant natural environmental features on the property; the methods proposed to preserve significant natural environmental features on the property; and the adverse environmental impacts which cannot be avoided if the proposed amendment is approved.

(6) The names and addresses of all owners of property adjacent to each property line of the property.

(7) Such additional other information as the Commission may, by rule, require.

(D) Findings of fact and recommendation by Planning Commission. Upon receipt by the Planning Commission of a complete application for amendment, the Commission shall, within 60 days, hold a public meeting at which it shall afford the applicant the opportunity to appear either in person or through a duly authorized agent or attorney in support of the proposed text amendment or district reclassification. The Commission shall make a full and complete record of the meeting by any appropriate means. Prior to the public hearing held by the Council on the proposed amendment pursuant to division (E), the Commission shall submit a report to the Council setting forth its findings of fact and recommendation to approve or disapprove the application for amendment.

(1) Text amendment. If the application is for an amendment to the text of this chapter, the report of the Commission shall contain findings of fact with respect to the following matters:

(a) Whether the proposed text amendment is consistent with the village's adopted land use policies and objectives.

(b) Whether the proposed text amendment is consistent with the intent and purpose of this chapter.

(c) What areas of the village are most likely to be affected by the proposed text amendment and the manner in which those areas will be affected.

(d) Whether the proposed text amendment is necessitated by a change in conditions in the areas of the zoning districts affected and the nature of such changed conditions.

(2) District reclassification. If the application is for a reclassification of property to a different district on the zoning map of this chapter, the report of the Commission shall contain findings of fact with respect to the following matters:

(a) Whether the proposed district reclassification is consistent with the village's adopted land use objectives and policies.

(b) Whether there are any changed or changing conditions in the area affected that make the proposed district reclassification necessary.

(c) Whether the range of uses in the proposed district classification are compatible with the uses permitted on other property in the immediate vicinity.

(d) Whether adequate utility and sewer and water facilities exist or can be provided to serve the use that would be permitted on the property if it were reclassified.

(e) The impact that the proposed use will have upon the volume of traffic and traffic safety in the safety in the vicinity.

(f) Whether the proposed district reclassification would correct an error in the application of this chapter as applied to the subject property.

(g) Whether productive use of the subject property will be precluded if the proposed district reclassification is denied.

(3) Recommendation. The Commission shall base its deliberations, findings of fact and recommendation to approve or disapprove the proposed amendment only upon:

(a) The facts presented by the applicant in the application for amendment and in the applicant's presentation before the Commission.

(b) Reports and other materials prepared or submitted in connection with the application and made a part of the record.

(c) Site inspections when all interested parties or their representatives are also present, or when no such parties or their representatives are present.

(E) Hearing before Council. Upon receipt of the report of the Planning Commission concerning the proposed amendment, the Council shall, within 60 days hold a public hearing.

(1) Notice. Notice of the time and place of the hearing by the Council of an application for amendment shall be published once a week for three consecutive weeks before the hearing, in a newspaper of general circulation in the village. In addition, if the application for amendment is for a district reclassification, individual notice shall be given 15 days in advance of the hearing by certified United States mail to owners of any property located adjacent to or across a roadway from the subject property.

(2) Conduct of hearing. Any person who satisfies the Mayor of the Council that he or she or it has a significant interest in the subject matter of the hearing shall be afforded an opportunity to present evidence and argument, and to question through the Mayor witnesses on all relevant issues, subject to the Mayor's

imposition of reasonable limitations on the number of witnesses, and the nature and length of testimony in questioning. All testimony at the hearing shall be under oath administered by the City Manager, or by affirmation. The Council shall make a full and complete record of the hearing by any appropriate means. In the event of filing of a judicial complaint challenging the Council's decision, the record shall be transcribed on order of the Mayor. If a sound recording is made, any person, upon request made to the City Manager, shall have the opportunity to listen to the recording at any reasonable time.

(F) Action by Council. The Council shall act upon the application for amendment within 30 days of the date of the public hearing. If the report of the Planning Commission recommends disapproval of the proposed amendment, such amendment, in order to be approved, must receive an affirmative vote of three-fourths of the full membership of the Council. If an application for amendment is not voted upon by the Council within 30 days of the date of the public hearing, it shall be deemed to have been denied. A lot, lots or parcel of land shall not qualify for a district reclassification unless it adjoins a lot, lots or parcel of land which bears the same district classification as the classification proposed in the amendment.

('80 Code, § 150.12) (Ord. 7-45, § 12, passed 6-5-45; Am. Ord. 2-84, passed 2-27-84)

§ 155.99 PENALTY.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of, any of the provisions of this chapter shall be guilty of a minor misdemeanor and on conviction thereof shall be fined not more than \$500 for each offense. Each and every day that a violation continues shall constitute a separate offense.

('80 Code, § 150.99) (Ord. 13-85, passed 10-21-85; Am. Ord. 24-04, passed 9-27-04)