

ORDINANCE NO. 03-2014

AN ORDINANCE TO AMEND THE ZONING REGULATIONS OF THE VILLAGE OF RIVERLEA

Introduced by Mr. McHugh.

WHEREAS, the Council for the Village has determined that updates are needed to Chapter 151 of the Code of Ordinances, and that this will clarify the zoning regulations and benefit the residents of the Village.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF RIVERLEA, STATE OF OHIO:

That Riverlea Code Section 151 is hereby amended in its entirety by deleting all sections and adding the following:

CHAPTER 151: ZONING CODE

GENERAL REGULATIONS

§ 151.066 DEFINITIONS.

As used in this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING. A permanent fabrication or construction consisting of foundations, walls, columns, girders, beams, floors, and a roof, or some combination of these elemental parts, that is intended as a habitation or shelter for people or animals or a shelter for tangible personal property, and that has structural integrity independent of the tangible personal property, if any, it is designed to shelter.

HARDSCAPING. The placement of non-plant elements such as fences, walkways, paving, decks, patios or other impervious surfaces, and lighting in a planned outdoor area.

STRUCTURE. A permanent fabrication or construction, other than a building, that is attached or affixed to land, and that increases or enhances utilization or enjoyment of the land. "Structure" includes, but is not limited to, bridges, trestles, dams, storage silos for agricultural products, fences, and walls.

(Ord. 675, passed 12-21-1992)

§ 151.001 SCOPE OF REGULATIONS.

(A) The height and location of buildings and other structures hereafter erected or

altered, the bulk and location of buildings and other structures hereafter erected or altered, and the percentage of lot occupancy set-back, building lines and area of yards and other open spaces, be and hereby are regulated, restricted and limited in the manner and form provided hereunder.

(Ord. 228, passed 6-12-1964)

(B) No building or structure shall hereafter be constructed, erected, altered, reconstructed, enlarged or remodeled and no building, structure or part thereof that has been erected or altered in violation of the provisions of this subchapter after its effective date may be maintained, occupied or used, in either event if such alteration, reconstruction, enlargement or remodeling involves the exterior design, material finish grade line, hardscaping, or orientation of the building or structure, unless the owner of the real property upon which such building or structure is located shall have first obtained a Certificate of Appropriateness for such construction, erection, alteration, reconstruction, enlargement or remodeling in accordance with the provision of this chapter or with the provisions of any prior ordinance of this village, except as specifically amended hereby.

(Ord. 675, passed 12-21-1992)

(C) No building permit shall be issued unless there is first issued and there remains unexpired and outstanding a Certificate of Appropriateness. A certificate of appropriateness shall expire within 12 months after the issuance thereof unless, within such 12 months, commencement of the work contemplated by such certificate has occurred.

(Ord. 674, passed 12-21-1992)

**§ 151.002 APPLICATION OF STATE LAW AS TO DIVISION OF LAND;
COUNCIL APPROVAL.**

(A) The provisions of R.C. §§ 711.01 to 711.39, inclusive, shall apply to the division of any parcel of land in the village by an instrument of conveyance.

(B) Any instrument of conveyance which if recorded would result in a "subdivision" (as such term is defined in R.C. § 711.001(B)) of land in the village shall be submitted to Village Council for approval in accordance with the standards set forth in R.C. § 711.131 and may only be recorded by the Franklin County Recorder if a properly designated representative of Village Council indicates Council's approval of such subdivision by noting on the face of the instrument of conveyance: "Approved by Village of Riverlea; No Plat Required." The designated representative shall also sign his or her name to the notation.

(C) (1) Village Council shall approve no instrument of conveyance which, if recorded, would result in a "subdivision" (as such term is defined in R.C. § 711.001(B)) of land in the village, unless the newly designated parcel created as a result of such instrument conveyance has continuous frontage upon a publicly-dedicated and improved

street for a distance that is at least as great as the greater of the following 2 distances: 50 feet, and a distance equal to the arithmetic average of the street frontage of all lots that are both located on the same street and within 500 feet of the outside boundaries of the new lot created by such instrument of conveyance.

(2) As used in this division (C), the term **LOT** shall mean any of the following:

(a) Any lot or parcel of property, including any reserve, identified for separate conveyance on the original plat of the subdivision of The Van de Boe-Hager Co. Addition No. 11 Known as Riverlea, of record in Plat Book 16, at Page 55, in the Office of the Recorder of Franklin County, Ohio, or if not included within such plat, then as such parcel was separately owned on the date of incorporation of the village;

(b) Any lot or parcel of property separately identified as an individual tax parcel or to which a separate parcel identification number was assigned on the records of the Franklin County Auditor as of June 16, 2008;

(c) All or any part of a street or alley originally identified on the original plat of the subdivision of The Van de Boe-Hager Co. Addition No. 11 Known as Riverlea, of record in Plat Book 16, at Page 55, in the Office of the Recorder of Franklin County, Ohio, but which part of a street or alley has subsequently been vacated and is no longer maintained for public use.

(3) In determining the 'arithmetic average' of the street frontage of lots located on the same street for purposes of this division (C):

(a) Only those lots located on the same side of the street as the parcel for which the computation is made is located shall be included;

(b) The term lot shall have the above described meaning even though 1 or more lots, or parts thereof, have been combined into a single tax parcel by the Franklin County Auditor; and

(c) In determining the frontage of corner lots, i.e., lots that border more than 1 street as originally platted, the lot lines along each street shall be extended into the street right-of-way to the point of intersection, and such point shall be used as the corner of the lot for purposes of determining the street frontage of that lot.

(Ord. 714, passed 12-19-1994; Am. Ord. 02-06, passed 6-19-2006; Am. Ord. 03-06, passed 7-10-2006; Am. Ord. 04-2008, passed 10-20-2008)

§ 151.003 REGULATING CONSTRUCTION IN FLOOD PRONE AREAS.

(A) *Definitions.* As used in this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **FLOOD HAZARD AREA.** All those portions of land within the corporation limits of the village from time to time that are also identified as "Special Flood Hazard

Areas Inundated By 100-Year Flood" or as "Floodway Areas in Zone AE" on the Flood Insurance Rate Map for Franklin County, Ohio and Incorporated Areas, prepared for the National Flood Insurance Program by the Federal Emergency Management Agency, that is effective as of August 2, 1995, as the same shall be amended from time to time after that date including, but not exclusively, amendments thereto that shall be effective as of April 21, 1999, which maps are hereby incorporated by reference as part of this chapter.

(2) **STRUCTURE.** Shall have the same meaning as that word is defined in § 151.066 of this chapter.

(B) *Development prohibited.*

(1) No building or structure shall hereafter be constructed, erected, altered, enlarged or remodeled within the flood hazard area of the village, and no permit shall be issued pursuant to Chapter 150 of this code, or any subsequent ordinance of this village, and no such permit, if issued after the effective date of this chapter, shall be valid or confer any rights upon the holder thereof, if such permit provides for the construction, erection, alteration, enlargement or remodeling of any structure located, in whole or in part, within the flood hazard area of the village, unless there is first issued and then remains unexpired and outstanding any certificate of appropriateness for such construction as required by this chapter and the applicable provisions of any other ordinance of this village. A certificate of appropriateness for construction within a flood hazard area of the village shall be subject to the provisions of §§ 151.065 through 151.074 of this chapter, and the further provisions of this chapter, all as may hereafter be amended.

(2) Anyone seeking the issuance of a certificate of appropriateness for any structure to be located, in whole or in part, within the flood hazard area of the village, must provide as part of the application therefor, compelling evidence that the structure shall comply with the following restrictions:

(a) The structure shall not be used other than for non-commercial gardening, park, recreational or similar uses incident to the use of a single family residence located on the lot in an area outside the flood hazard area. In no instance will the flood hazard area be considered suitable or permissible for the location of residential structures;

(b) Any structure or other development in the flood hazard area shall be:

1. Anchored to resist flotation, collapse or lateral movement;
2. Constructed with materials and utility equipment resistant to flood damage;
3. Constructed using methods and practices that are designed to control erosion and minimize flood damage.

(c) No land lying within a flood hazard area of the village shall be filled in any manner whatsoever, except for control of erosion caused by river flow, and any such

fill placed for erosion purposes within the flood hazard area must meet the encroachment provisions of division (e) below of this section.

(d) No land lying In the flood hazard area shall be excavated in any manner except pursuant to a grading plan approved by the Planning Commission; and

(e) No encroachment, including fill, new construction, substantial improvements, or other development may be placed within the flood hazard area unless a technical evaluation demonstrates that the proposed encroachment shall not result in any increase flood levels during the occurrence of a 100-year discharge.

(3) No certificate of appropriateness shall be issued for construction within a flood hazard area in the village that does not provide compelling evidence of the compliance with or inapplicability of all the foregoing restrictions or conditions.

(Ord. 764, passed 4-19-1999)

CONSTRUCTED BUILDINGS.

(A) The Mayor is authorized and directed on behalf of the village, to assign a street number to any newly-constructed or existing residential building within the village, and to execute any and all documents necessary or desirable to notify other governmental or public-service agencies of such action. In determining and assigning any such number, the Mayor shall seek to assign street number(s) that will not likely lead to confusion of persons seeking to locate such dwelling.

(B) Notwithstanding the foregoing, the Mayor shall only assign a street address to the one principal dwelling or residential building located on any subdivision parcel, and the Mayor shall not assign more than one street number to any single building in the village, except that the Mayor may assign multiple street number(s) to a single building that contains multiple dwelling units and is located upon property within the village to which property an "apartment" or other multifamily use zoning classification has been assigned.

§ 151.020 SINGLE FAMILY DWELLING RESIDENCE LIMITATION; ACCESSORY USES AND HOME OCCUPATION USES.

Single family residences permitted. No person shall construct, occupy or use any land, lot, premises, building or structure in the village for any purpose or use other than as a single family dwelling, as an accessory use to a single family dwelling, or as a permitted home occupation, as such terms are defined in this section, and otherwise subject to the other provisions of this chapter. No more than 1 single family dwelling, or part thereof, shall be located on any lot within the village. No single family dwelling house shall hereafter be erected unless it shall have a minimum net floor area for living quarters of 1700 square feet above ground, exclusive of garage, porches or breezeways. No single family dwelling house shall hereafter be erected which shall contain less than 4 rooms including a bathroom, and no sleeping room thereof shall contain less than 125 square feet. It is the purpose of this section to prevent the construction of dwellings containing

cramped living conditions.

No single family dwelling shall be occupied by more than 1 family or household. No land, lot, premises, building or structure in the village shall be constructed, occupied or used for any trade, industry or other commercial use other than a home occupation. As used in this section:

(1) **LOT** shall have the meaning ascribed to that term in § 151.002;

(2) **FAMILY** means 1 or more persons occupying a single dwelling unit, provided that unless all members are related to 1 or more other occupants by blood, adoption, foster or custodial status, or marriage, no such family shall contain over 5 persons; and

(3) **SINGLE FAMILY DWELLING** means a detached residential dwelling unit other than a mobile home designed for and occupied by 1 family or household only.

(B) *Certain accessory uses permitted.* **ACCESSORY USE** means a use of any land, lot, premises, building or structure that is subordinate to the principal use of any land, lot, premises, building or structure as a single family residence, and that serves a purpose customarily incidental to the principal use, which principal use is located on the same lot, or on an adjacent lot that is under common ownership with the lot, on which the accessory use occurs.

(C) *Existing nonconforming uses; continuation.* The lawful, nonconforming use of any land, lot, premises, building or structure existing at the time of the adoption of this section may be continued, although such use, building, structure or land does not conform with the provisions of this title; except that, unless required by law, no existing building, structure or land devoted to a use not permitted by this title or used in a manner not conforming to the other provisions of this title, shall be enlarged, extended, expanded, subdivided, changed or structurally altered, unless the use thereof is changed to a use permitted by this title and conforming to all the other provisions hereof.

(D) *Permitted home occupations.* **HOME OCCUPATION** means an occupation, profession, activity, or use that is clearly an incidental, secondary or customary use of a residential dwelling unit, which does not alter the exterior character or appearance of the dwelling or any other building or structure on the lot, which is carried on solely within the principal dwelling unit, and with respect to which the owner or occupant of the lot has delivered written notice thereof to the Mayor or his or her designee as set forth herein. No person shall construct, occupy or use any land, lot, premises, building or structure in the village for a home occupation except in conformity with the provisions of this section.

(1) No person other than members of the family residing on the premises shall be engaged in such home occupation, except that in connection with the practice of a profession which can be practiced only with the assistance of supportive personnel, one person not residing in such dwelling unit may be so employed;

(2) Not more than 25% of the floor area of the dwelling unit shall be used in the

conduct of the home occupation;

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation;

(4) No home occupation shall be conducted in any yard or accessory building, and no storage of equipment or materials used in a home occupation shall be outside the principal residence;

(5) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood, and no more than 1 vehicle shall be used in connection with a home occupation;

(6) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises; and

(7) Any person who conducts an occupation, profession, activity, or use of property in the village in reliance on the provisions of this section that permit the conduct of home occupations, shall notify the Mayor or his or her designee in writing that such activity has or will occur, such notice to be delivered not later than 7 days after the first date on which such occupation, profession, activity or use of property first occurs, and shall describe the nature of the activity, the persons conducting such activity and the times during which such activity may be conducted.

(Ord. 228, passed 6-12-1964; Am. Ord. 01-2009, passed 4-20-2009)

§ 151.022 HEIGHT AND AREA LIMITATIONS.

(A) No building or other structure shall hereafter be erected to a height of more than 2½ stories.

(B) No house shall be erected on any lot or parcel of land containing less than 5000 square feet per house; provided that one single family dwelling may be erected on any lot now separately owned as shown by the records in the office of the County Recorder of Franklin County, Ohio.

(C) (1) No house or other residential structure shall be erected or constructed on any lot or parcel of land containing less linear frontage on publicly-dedicated and improved street than the greater of the following 2 distances: 50 feet, and a distance equal to the arithmetic average of the street frontage of all lots located both on the same street and within 500 feet of the outside boundaries of such lot or parcel; provided that 1 single-family dwelling may be erected on any lot now separately owned as shown by the records in the office of the County Recorder of Franklin County, Ohio and for which the County Auditor of Franklin County, Ohio, now maintains a separate tax parcel identification number.

(2) As used in this division (C), the term **LOT** shall have the meaning ascribed to that term in § 151.002;

(3) In determining the 'arithmetic average' of the street frontage of lots located on the same street for purposes of this division (C):

(a) Only those lots located on the same side of the street as the parcel for which the computation is made is located shall be included;

(b) The term 'lot' shall have the above described meaning even though 1 or more lots, or parts thereof, have been combined into a single tax parcel by the Franklin County Auditor; and

(c) In determining the frontage of corner lots, i.e., lots that border more than 1 street as originally platted, the lot lines along each street shall be extended into the street right-of-way to the point of intersection, and such point shall be used as the corner of the lot for purposes of determining the street frontage of that lot.

(D) Structures (including all buildings), parking areas (including garages, parking pads and driveways), decks, patios, swimming pools, sidewalks and other hard-surfaced areas shall not cover more than 40% of the total lot area on any lot or parcel.

(Ord. 228, passed 6-12-1964; Am. Ord. 02-06, passed 6-19-2006; Am. Ord. 03-06, passed 7-10-2006; Am. Ord. 04-2008, passed 10-20-2008)

§ 151.023 YARD RESTRICTIONS.

(A) *Front yard restrictions.* No buildings or other structures or any part thereof shall be erected nearer to the street line (meaning thereby the boundary line between the lot and the area dedicated for highway purposes along the front of the lot) than 35 feet; provided, however, that if houses have already been built on the street, the front building line of such new building or structure shall be set back the same set back distance from the street line as the nearest existing 2 houses on the same side of the street or where the set back distance of the 2 existing houses is different, then the average set back distance of the 2 houses; provided further that on the west side of Olentangy Boulevard due to the topography the set back distance shall be such distance as is approved by the Planning Commission.

(B) *Side yard restrictions.* No dwelling house or other structure shall hereafter be erected closer to the adjoining lot line than 10 feet. Said side yard shall be unobstructed from the established grade of the lot and the sky except for cornices or other obstructions of an ornamental nature, providing such obstructions do not extend into the side yard more than 18 inches. In the event the owner of a lot owns an adjoining lot or lots and desires to use more than one lot for such single dwelling house purpose (with necessary and proper out-buildings) a variance may be granted for modification of the side yard restriction by Council or such Commission as may be established to administer these provisions.

(C) *Rear yard restrictions.* Behind and immediately adjacent to every dwelling house hereafter erected there shall be an open, unoccupied yard extending across the entire width of the lot. The rear yard shall be 15% of the length of the entire lot, but in no case shall it be less than 10 feet. The depth of the rear yard shall be measured from the extreme rear line of the house. The provisions of this division (C) shall not prevent the use of a portion of the rear yard for garage purposes, provided that utility easements are not adversely affected.

(D) *Grandfathering.* In applying these regulations, strong consideration will be given to granting a variance to maintain consistent structural integrity; so that any renovations, improvements, or additions to existing structures will be consistent with such structures that historically have not been in conformance with current zoning codes.

(Ord. 228, passed 6-12-1964; Am. Ord. 571, passed 4-18-1985)

§ 150.022 DRIVEWAY APPROACH STANDARDS AND SPECIFICATIONS.

Council hereby adopts the *Standard Driveway (Residential) on Public R/W & Specifications*, as published by the City of Columbus, Ohio, Department of Public Service Engineering and Construction Division, Rev. 1/30/98, a copy of which is attached to Ordinance No. 794 and incorporated herein by reference, with administrative amendments, and with any and all additional administrative amendments and updates thereto, for mandatory use by persons who undertake or cause the construction, renovation or replacement of any driveway approach in the village; and authorizes and directs the Planning Commission to utilize such standard and specifications in the review and approval of any application for such construction, and not to approve or permit any construction of a driveway approach in the public rights of way of the village that does not comply with such standard and specifications. The Planning Commission shall deliver a copy of such standard and specifications to any person who seeks to undertake or cause the construction, renovation or replacement of any driveway approach in the village.

(Ord. 794, passed 3-19-2001)

§ 150.023 DRIVEWAYS AND CURB CUTS.

(A) No person shall cut or demolish any street curb, or construct any driveway or driveway approach from a public street within the Village, except in accordance with the requirements of §§ 150.022, 151.023 and any other applicable section of the Riverlea Codified Ordinances, or without the prior written permit of the Planning Commission or the prior written permit of the Mayor or his or her designee. As a condition of any such permit, the Planning Commission, Mayor or designee may require the provision of a bond in accordance with § 150.085.

(B) Each driveway shall be located and designed in a manner that provides for the safety of motorists and pedestrians.

(C) A driveway serving a residential property, parking area or lot shall be regulated

as follows:

(1) *Curb cuts.* The location of curb cuts or points of ingress/egress shall be restricted to promote traffic safety, and limited to 1 per single- or multi-family dwelling located on any lot or parcel of property that contains 100 feet or less of street frontage on the street to which the drive gives access, as measured at the set back line. A second curb cut may be permitted by the Planning Commission for properties containing more than 100 feet of street frontage on the street to which the drive gives access in connection with the issuance of a certificate of appropriateness for such lot or parcel. In the event the lot or parcel for which a second curb cut exists is subdivided or otherwise altered such that it no longer contains more than 100 feet of frontage, the owners thereof shall thereafter remove one drive and curb cut after application therefor to the Planning Commission and the issuance of a certificate of appropriateness for such removal. Any permitted second curb cut shall be subject to the following requirements:

(a) A maximum of 30% of linear curb distance along the lot frontage may be removed for driveway curb cuts except as otherwise limited in this section.

(b) The design function and appearance of driveways leading from an additional curb cut shall be compatible with and complementary to the building it serves as well as the surrounding neighborhood by the use of consistent paving materials.

(c) The curb cuts shall be located to provide adequate distance from adjacent properties or intersecting streets to prevent vehicle and pedestrian conflicts. The placement of an additional curb cut shall not conflict with existing safety or utility or infrastructure improvements including but not limited to traffic control devices, curb inlets, manholes, yard drains, meter sets, and valves.

(d) Install curbs and aprons of concrete of not less than 6 inches in thickness and aprons shall extend at least 6 feet from the asphalt portion of the street and not less than 10 feet in width.

(e) All curbs replaced shall be finished with radial corners.

(f) In addition to the requirements of division (A) of this section, all curbs shall be finished with asphalt overlay to meet the existing grade of the street.

(g) All debris remaining after curb has been cut shall be removed at once.

(2) *Setbacks.* Driveways shall be set back at least 5 feet from a side lot line. Where a single common drive is provided for 2 adjoining lots no driveway setback is required along the common property line.

(3) *Pavement width.*

(a) Curb line and right-of-way line. All driveways shall have a minimum width of 10 feet and a maximum width of 20 feet. In addition, curb lines will have 2, 3-foot flares, 1 on each side, measured at the curb line.

(4) *Design of driveways and hardscaping.* No curb cut or driveway on land located within the village shall hereafter be constructed, altered, enlarged or modified except after issuance of a certificate of appropriateness therefor in accordance with § 151.070 of the Riverlea Codified Ordinances. In reviewing an application for any such construction, alteration, modification or enlargement the Planning Commission may consider, among other things the materials used and the hardscaping to be provided in connection with the improvement. The primary pavement material on driveways and any driveway additions shall be identical. Approved primary pavement materials include asphalt, concrete, brick, concrete pavers, colored and imprinted concrete, or natural stone pavers or flagstones. The use of gravel as a driveway material is not permitted. Secondary materials such as brick or stone may be used for driveway borders or insets.

(5) *Front yard lot coverage.* Lot coverage in the yard space between the public street right-of-way, side property lines, and building setback lines shall not exceed 30%.

(Ord. 07-2008, passed 11-17-2008)

§ 151.025 MINIMUM REQUIREMENTS FOR ATTACHED AND DETACHED GARAGES.

(A) Attached garages may be 1-, 2-, or 3- car in size, shall meet the setback requirements for Buildings, and will be subject to review and approval by the Planning Commission.

(B) Private detached garages as an accession to a single dwelling house shall be limited as follows: 1-, 2-, or 3-car garages may be built on the same lot with a dwelling house, providing such garages are located at least 10 feet in the rear of the dwelling house. Setbacks and rear yards for detached garages shall be the same as required for Buildings, and will be subject to review and approval by the Planning Commission.

(Ord. 228, passed 6-12-1964)

§ 151.026 CORNER LOT RESTRICTIONS.

No building shall be erected on a corner lot nearer than 20 feet to the side street line (meaning the boundary line between such lot and the area dedicated for highway purposes along the side thereof) and any detached garage or other out-building shall be erected as far from such side street line as possible and in no case nearer to such side street line than 30 feet; provided, however, on corner lots having a width of 50 feet or less, the building set-back line shall be at least 10 feet from the side street line and all detached garages or other out-buildings shall be constructed at least 20 feet from the side street line.

(Ord. 228, passed 6-12-1964)

§ 151.027 MISCELLANEOUS RESTRICTIONS.

No buildings or premises shall hereafter be erected, altered or used for any of the following purposes: Multiple dwellings, billboards or advertising signs, refuse dumps, storage or any other purposes which may cause noxious odors, danger of explosion undue fire hazards or such noise as to be a public nuisance. No premises shall be used for sand, gravel or dirt pits or for removal of sod for sale, except by special permit issued by the Village Council or Planning Commission. The enumeration in this section of specific prohibited uses shall not in any manner limit the generality of the restrictions and limitations contained in other sections of this chapter.

(Ord. 228, passed 6-12-1964)

§ 150.055 SWIMMING POOLS WITHIN THE VILLAGE LIMITS.

(A) Definition. The following definition shall apply in the interpretation and enforcement of this section.

SWIMMING POOL. A body of water of artificial construction used for swimming or recreational bathing, which is over 24" in depth at any point and has more than 150 square feet of area on the water surface when filled to capacity, together with sides and bottom of such pool and equipment and appurtenances thereto.

(B) Construction, equipment and appurtenances.

(1) Any material which will provide a tight tank with smooth easily cleanable surface may be used.

(2) Facilities, equipment and appurtenances shall be provided so that the pool water shall be of a safe, sanitary quality.

(3) If recirculation equipment is used, the following items of sanitation shall be observed.

(a) Runways and overflow gutters shall drain into a sanitary sewer or shall be disposed of in such a manner that is approved by the Franklin County Health Department.

(b) Suitable pumping and piping equipment shall be provided for recirculation of the pool water, adequate hair catchers shall be provided.

(c) Suitable filtration equipment shall be provided for the proper clarification of the pool water (county or state regulations).

(d) Suitable disinfection or chlorination apparatus shall be provided to disinfect the filtered water continuously prior to its return to the pool.

(e) Above appurtenances, divisions (c) and (d), shall be adequately housed or obscured from view.

(C) Electric wiring. All electric wiring, appliances, switches and outlets shall be installed in such a manner that there will be no possibility of shock hazards to bathers.

(D) Swimming pool fencing. All swimming pools within the village are required to be fenced. The owner, or agent of the owner, of such a permanent swimming pool is required to completely enclose such pool by a fence of sturdy construction of not less than 6 feet in height, measured from the level of the ground where located. Such fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence. Each gate in such fence shall be provided with a secure lock and shall be kept locked at all times when pool is not in use, or is not under the immediate observation of a responsible-person. No part of such fence shall be located between the front building line and the street on which the lot or parcel containing the swimming pool abuts. Nor shall such fence be located closer than 5 feet to adjoining lots to the sides and rear.

(E) Certificate of Appropriateness. The owner or agent of the owner must secure a Certificate of Appropriateness for the erection of such fence required and also for construction of a swimming pool, either permanent or temporary, from the Planning Commission. Application for such Certificate of Appropriateness shall contain the plan of construction, location of said pool and the following information: Owner's name and address, contractor, ground area of lot site of pool, ground area of fenced area and of pool proper. Width of walk area around pool, distance in feet of north, south, east, and west sides of such areas, height of pool above lot grade in feet, and volume of water of pool, type of construction, type size and location of filter system, and where located. Information on the pool drain and where drained.

(F) Portable above ground pools. Portable above ground pools are not permitted except as defined in 151.055(A).

§ 151.028 PORTABLE RESIDENCES PROHIBITED; EXCEPTIONS.

No mobile home, trailer, or similar portable residential structures shall be permitted in any district in the Village except for camping and travel trailers as permitted in Sec. 151.XXX.

151.XXX. DEFINITIONS OF RECREATIONAL AND CAMPING EQUIPMENT; STORAGE.

(a) For purposes of this section, the following definitions shall apply:

(1) "Recreational and camping equipment" includes boats, boat trailers, snowmobiles, snowmobile trailers, utility trailers, recreational and camping vehicles.

(2) "Recreational and camping vehicles" means vehicular-type structures primarily designed as temporary living quarters for recreation, camping or travel use which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. "Recreational and camping vehicles" include, but are not necessarily limited to the following:

A. A "**Travel trailer**" is a rigid vehicular portable structure mounted on wheels, without its own motive power, of such size or weight as not to require special highway movement permits and primarily designed and constructed to provide temporary living quarters for recreation, camping, travel or vacation use.

B. A "**Camping trailer**" is a vehicular portable structure mounted on wheels, without its own motive power, and constructed with folding or collapsible walls of fabric, plastic or other pliable material for folding compactly, and when unfolded at a site or location, provides temporary living quarters and whose primary design is for recreation, camping, travel or vacation use.

C. A "**Truck camper**" is a portable structure without its own motive power, designed to be loaded onto, or affixed to, the bed or chassis of a powered vehicle designed and constructed to provide temporary living quarters for recreation, camping, travel or vacation use.

D. A "**Motor home**" is a structure built on and made an integral part of a self-propelled motor vehicle chassis other than a passenger car chassis, primarily designed to provide temporary living quarters for recreation, camping and travel use.

(3) A "**Boat, boat trailer or utility trailer**" includes any boat or trailer used for the purpose of hauling boats and related boating equipment, or any trailer drawn by another motor vehicle which is used to transport animals or for the occasional transport of camping or other equipment or personal effects.

(4) "**Parking for the purpose of storage**" means the placement or parking of recreational and camping equipment anywhere in the village, for any period of time other than that time actually spent for the ordinary, customary and reasonable time required for loading, unloading, outfitting or otherwise preparing for recreational use. An owner or operator whose use of such vehicle as a recreational or camping vehicle is only incidental to its primary use for general transportation purposes shall not be deemed to be parking such vehicle for the purpose of storage within the meaning of this section.

(b) The parking of recreational and camping equipment for the purpose of storage shall be permitted in driveways of the village for a period of seventy-two (72) hours. Long term parking of recreational and camping equipment for the purpose of storage shall be prohibited.

§ 151.029 DUMPSTERS AND TEMPORARY STORAGE FACILITIES.

(A) *Definitions.* As used in this section:

(1) **PORTABLE STORAGE UNIT(S).** Any container, storage unit, shed-like container or other portable structure that can be or is used for the storage of personal property of any kind and which is designed or intended to be located for such purposes outside an enclosed building for a temporary period of time until the portable storage unit is moved to an off-site location.

(2) **DUMPSTER.** Any bulk container placed for use as a depository for refuse, trash, garbage, construction materials or debris, except that the term **DUMPSTER** shall not include any such container that by size may not hold in excess of 90 gallons of materials.

(B) *Usage, frequency and duration.*

(1) *Usage of portable storage unit.* No portable storage unit shall be placed or maintained on any real property, public or private, within the village except that 1 portable storage unit may be located or maintained by a person upon real property under the ownership or control of that person within the village either to hold or to secure property of said person that cannot conveniently be maintained within a residential structure upon such real property as a result of construction work within such residential structure; or for loading or unloading property when moving to or from a residential structure located on such real property.

(2) *Usage of dumpsters.* No dumpster shall be placed or maintained on any real property, public or private, within the village except that 1 dumpster may be used for holding refuse, garbage, construction materials or debris when cleaning, maintenance or other construction work on a property or a residential structure located on such lot may require a place to throw away large amounts of waste; or for holding waste when moving to or from a structure located on that lot.

(3) *Frequency and duration.* As used in this section, an "event" shall consist of the delivery and pick-up of the portable storage unit or multiple deliveries and pick-ups within a consecutive 3 month period. No portable storage units and no dumpsters, otherwise permitted by this section to be placed or maintained on any real property within the village, shall be maintained for a period of time in excess of 3 successive months per event, and no person shall cause more than 1 event per calendar year to occur with respect to any single residential structure located in the village. There shall be at least 30 calendar days in between each event. Notwithstanding the foregoing, upon application, the Planning Commission may permit the occurrence of an event lasting more than 30 calendar days described above, provided a certificate of appropriateness is issued pursuant to 151.070 for the construction or other activity on the property for which the portable storage units or dumpster is required.

(4) *Location.* No portable storage units or dumpsters shall be located in any street or public right-of-way, except as part of construction activity being conducted by or on behalf of a governmental unit within a street or public right-of-way. No portable storage units or dumpsters designed to serve the occupants of any private property shall be located other than in a driveway, rear or side yard of such property and not closer to a street or lot line than any front, side or rear yard setback required for the construction of buildings upon such property. No portable storage units or dumpsters designed to serve the occupants of any private property shall be located closer than 15 feet to any residential structure located on an adjacent parcel of land.

(D) *Responsibilities of vendors and users.* The vendor of any portable storage unit or dumpster shall ensure that the unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing or other holes or breaks. When not being accessed immediately by a person, the portable storage unit shall be kept locked. Dumpster lids and doors shall be kept tightly and completely closed when not in use. No hazardous substances may be stored or kept within a portable storage unit and/or dumpster. The area surrounding the dumpster shall be kept clean and free of loose debris. The vendor shall indicate their name and contact telephone number on the portable storage unit or dumpster.

(E) *Relationship to other laws.* Nothing in this section is intended to limit or supersede any other provision of the Riverlea Codified Ordinances or applicable laws of the State of Ohio, including those that regulate the use of property within the village or activities thereon. Anyone who violates any provision of this section shall be subject to the penalties provided in § [151.999](#).

(Ord. 06-2008, passed 11-17-2008) Penalty, see § [151.999](#)

FENCES, WALLS, HEDGES, SHRUBS, AND ACCESSORY BUILDINGS AND STRUCTURES

§ 151.040 DEFINITIONS.

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

ACCESSORY BUILDINGS. As used in § 151.044, shall mean all structures greater than 10 feet in width or 10 feet in length either attached or unattached to the ground, and up to 100sf in size, or larger as approved by the Planning Commission, with setbacks as defined in Sec. 151.023, or as approved by the Planning Commission. Such definition shall include but not be limited to garages, houses and sheds.

FENCE and WALL. Any structure composed of wood, metal, stone, brick or other material erected in such a manner and position as to enclose, partially enclose or divide any premises or any part of any premises. Trestles or other structures supporting or for

the purpose of supporting vines, flowers or other vegetation when erected in such a position as to enclose, partially enclose or divide any premises or part of any premises shall also be considered as fences.

FRONT YARD or **SIDE YARD.** Refers to the area between 10 feet from the front or side wall of the dwelling house on any lot and the 'street line' as defined below in this section.

HEDGES AND SHRUBS. Shall not be considered fences but are regulated in § 151.044.

SOLID FENCES AND WALLS. Those fences and walls which have less than 40% free or open area. Gates and gate openings shall not be counted as free or open areas when determining whether a fence is solid.

STREET LINE. The boundary line between a lot and the area dedicated for highway purposes along the front or side of such lot.

(Ord. 472, passed 6-16-1980)

§ 151.041 CERTIFICATE OF APPROPRIATENESS REQUIRED

No fence, wall, or accessory building shall be erected until a certificate of appropriateness for such purpose has been issued by the Planning Commission. Application shall be made on the appropriate form and shall be accompanied by plans or drawings showing the actual shape and dimension of a lot on which the fence or wall is to be constructed, the exact location, height, length, type of material and type of construction of such proposed fence or wall and the location of all buildings on the lot and on adjoining lots.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

§ 151.042 PROHIBITED TYPES OF FENCES.

(A) Barbed wire fences, or fences or walls having cutting points or cutting edges, of any kind whatsoever, including without limitation wire or metal prongs or spikes, shall be prohibited.

(B) No walls or fences which have supporting members visible from any other property which adjoins or faces the walls or fences shall be permitted. This shall not apply to fences with vertical supporting members where the fence is designed to be identical in appearance from either side.

(C) Fences charged with electrical current shall be prohibited.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

§ 151.043 CONSTRUCTION REQUIREMENTS FOR SOLID FENCES AND WALLS.

Solid fences and walls shall be constructed of brick, stone or wood or other compatible material as determined by the Planning Commission.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

§ 151.044 LOCATION RESTRICTIONS.

(A) No fence, hedge, building, accessory building or wall of any kind shall be constructed in any front yard or any side yard abutting on a public street.

(B) Corner lots.

(1) No fence, structure or planting shall be erected or maintained on any corner lot within ten feet of either the front or side yard right-of-way line at a height greater than two and one-half feet above street grade, nor shall any vehicle or other obstruction be located within fifteen feet of either the front or side yard right-of-way line so as to interfere with traffic visibility. Trees are permitted if trimmed so that no foliage is less than ten feet above street grade.

(2) If, in the judgment of the Planning Commission the otherwise permitted vegetation or foliage will materially obstruct the view of a driver of a vehicle approaching a street intersection, that vegetation shall be removed within a reasonable time by the owner.

(3) Where vegetation is not trimmed or removed to comply with this section within 10 days after notice from the Mayor or the Mayor's designee, it shall be lawful for persons employed by the Village to enter upon such property and trim the shrubbery or hedge at the expense of the property owner. Any vegetation, tree, shrub or hedge found to be located upon public property may be removed by the village at any time.

(C) No fences, hedges or shrubbery over 48 inches in height above the plane of the finished grade of the lots at the division line between lots shall be erected, planted or maintained along or within 10 feet of the division line between lots. No trees shall be planted or maintained within 10 feet of the division line between lots unless no foliage of such trees is less than 10 feet above the finished grade of the lots at the division line between lots.

(D) The restrictions of § 151.044(D) shall not apply if any of the following events exist or occur:

(1) All parts of the fence, hedge or shrubbery are located 20 feet or more from any building located on the lot upon which the fence, wall, hedge or shrubbery is to be located and are also 20 feet or more from any building located upon the property upon

which the fence, hedge or shrubbery borders;

(2) All lot owners upon whose property the fence, hedge or shrubbery borders have given written consent, which consent has been filed with the Planning Commission and the Clerk-Treasurer of the village; or

(3) A Certificate of Appropriateness has been issued for the construction, erection or maintenance of the fence, hedge or shrubbery in such location.

Nothing in this section shall alter any other requirement of the Codified Ordinances that a property owner first obtain a Certificate of Appropriateness or variance before constructing, erecting or maintaining a fence or other structure; provided, however, that no variance shall be required for the erection, construction or maintenance of a fence within 10 feet of the division line between adjacent lots if the fence height is either (a) less than 48 inches in height above the plane of the finished grade of the lots at the division line between lots, or (b) less than 72 inches in height above the plane of the finished grade of the lots at the division line between lots and one or more of the events described in § 151.044(D) has occurred.

(Ord. 472, passed 6-16-1980; Am. Ord. 09-2009, passed 12-21-2009) Penalty, see § 151.999

§ 151.045 HEIGHT RESTRICTIONS.

(A) Fences, walls, accessory buildings, hedges or shrubbery over 6 feet in height shall be prohibited.

(B) Backstops for tennis courts and similar recreational activities may be erected to a height of more than 6 feet upon special permit granted by the Planning Commission, in compliance with such terms and conditions as may be imposed by the Commission in connection with the granting of such permit.

(C) Construction on embankments. Where a fence is constructed on an embankment, or where the ground under the fence has been graded to a higher level than the surrounding ground, for the apparent purpose of increasing the height of the fence above the grade of adjacent ground, the permissible height of the fence, as above set forth, shall be reduced by the height of such embankment or grading, subject to the right of the owner to appeal from the decision of the Planning Commission or to seek a variance from the Planning Commission. This division (C) shall in no way affect the height requirement in § 151.046 hereof for fences surrounding swimming pools.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

§ 151.047 INSPECTION AND MAINTENANCE.

(A) *Inspection.* It shall be the duty of each property owner to determine property lines and ascertain that the fence thus constructed does not deviate from the plans as

approved by the Planning Commission, and the fence does not encroach upon another lot or parcel of land. The village shall furnish such inspection as it deems necessary to determine that the fence is constructed in accordance with plans submitted for the Certificate of Appropriateness as outlined in § 151.041 hereof. However, the issuance of the Certificate of Appropriateness by the village shall not be construed to mean that the village has determined the fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed upon him or her herein.

(B) *Maintenance.* It shall be the duty of each property owner to properly maintain any fence erected upon his or her property. If a fence is constructed of wood, then it must be suitably treated to prevent rot.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

§ 150.056 COMMUNICATION TECHNOLOGIES.

(A) Within the village, the following provisions shall apply to satellite ground stations or other antennas designed to transmit or receive radio or television signals to or from earth satellites:

(1) Such ground stations or antennas shall be for the personal use of residents and their guests only.

(2) Such ground stations or antennas shall contain no graphic message or advertising.

(3) Ground-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:

(a) Such stations or antennas not mounted on the roof of a primary or accessory structure shall be located to the rear of the principal building or structure and shall not exceed an above grade height of 12 feet.

(b) Such stations or antennas shall not be located closer than 10 feet to a rear lot line, 8 feet from a side lot line, or 1 foot from any easement.

(c) Such stations or antennas shall be mounted in a concrete base in line with grade and only metal supports of galvanized construction shall be utilized.

(d) Wiring between such station and any other structure shall be placed underground.

(e) Such stations or antennas shall be designed to withstand a wind force of up to 70 miles per hour without the use of supporting guy wires.

(4) Roof mounted stations or antennas shall be considered accessory structures

and shall comply with the following conditions and requirements.

(a) Such stations or antennas shall be mounted directly on the roof of a primary or accessory structure and shall not be mounted on appurtenances such as chimneys, towers or spires.

(b) Such stations or antennas mounted on the roof of a primary or accessory structure shall not exceed a height of greater than 3 feet above the roof on which it is mounted. The height shall be measured vertically from the point at which such station or antenna is mounted on the roof.

(c) The diameter of any dish antenna mounted upon the roof of a primary or accessory structure shall not exceed 3 feet.

(d) Such stations or antennas shall be designed to withstand a wind force of up to 70 miles per hour without the use of supporting guy wires.

_(Ord. 558, passed 6-20-1984)

ADMINISTRATION

§ 151.065 PLANNING COMMISSION.

(A) A Planning Commission to administer the details of the application of the regulations, restrictions, and limitations provided by the Zoning Code is hereby created.

(B) The Planning Commission shall consist of five electors of the village appointed by the Mayor ~~by~~ and with the advice and consent of the Village Council, one for three years, two for two years, and two for three years, and the successor each for the term of three years.

(C) The Mayor annually shall appoint one of the members of the Planning Commission as Chair thereof, which person shall serve in such capacity until his or her replacement is appointed and qualifies.

(D) The jurisdiction to administer the Zoning Code, as specified therein and subject to the provisions thereof regarding appeals, is hereby delegated to the Planning Commission. The duties of the Planning Commission are as follows:

(1) Review proposed amendments and rezoning requests to the Zoning Code and make recommendations to Council.

(2) Review and act upon applications for Certificates of Appropriateness for new construction, exterior modification and/or structural alterations in § 151.068, other applications as provided for in this chapter, and applications for variances from the provisions of the Zoning Code in a particular instance as provided in §§ 151.090 et seq.

(3) Propose amendments to the Zoning Code and make such planning or zoning recommendations to Council as are deemed necessary.

(4) Perform all the actions or duties required of or permitted to a planning commission of a village established pursuant to R.C. § 713.01 as provided for in R.C. Chapter 713, and also any and all the actions or duties required of or permitted to an administrative board established by a village legislative authority established pursuant to R.C. § 713.11.

(5) Perform such other duties as may be required by ordinance or requested by Council.

(6) Hold informal working sessions with owners, occupants, developers, builders and the general public, for the purpose of providing advice and guidance in accordance with the Zoning Ordinances and prior to the submittal and review of formal development plans.

(7) Perform any action or matter for which any provision of the Building and Zoning Code permits or requires action by a "Planning Commission".

(E) Members of the Planning Commission, and the Chair thereof, shall receive such compensation as shall be determined by Village Council from time to time, and shall be entitled to be reimbursed for any necessary expenses incurred in the discharge of their duties.

(F) The Planning Commission shall adopt from time to time such rules and regulations as may be necessary to conduct its business and to carry into effect the provisions of the Zoning Code.

(G) Any person aggrieved by the action of the Planning Commission shall have the right to appeal an adverse action to Village Council, as provided in § 151.072.

(Ord. 01-2008, passed 3-17-2008)

§ 151.068 APPLICATION AND NOTICE.

(A) Whenever a structure, whether public or private, within the above described district is proposed to be constructed or erected and whenever an existing structure is proposed to be altered, reconstructed, enlarged or remodeled, if such alteration, reconstruction, enlargement or remodeling involves the exterior design, material, finish grade line, hardscaping or orientation of the structure, an application for a certificate of appropriateness shall be filed with the Clerk-Treasurer together with a fee based upon the following schedule:

(1) If the cost of the proposed project is to be \$2,000 or less, the applicant shall pay a fee of \$10.

(2) If the cost of the proposed project is to exceed \$2,000, a fee of \$1 for each

\$1,000 or fraction thereof of the estimated total cost shall be paid. In no case shall such fee be less than \$10 or more than \$200.

(B) The application shall be accompanied by a line drawing indicating at a minimum, the lot dimensions, size, shape and dimensions of the structure, the location and orientation of the structure on the lot, a Lot Coverage Tabulation, an estimate of total construction cost, and the actual or proposed building setback lines. In addition, the application shall be accompanied by a detailed narrative description of the proposed design or change of design, use of materials, finish grade line, hardscaping and orientation of the structure. Applications for structures to be constructed or remodeled, which remodeling would increase or decrease the total gross building area by 50% or more, shall be accompanied by a colored elevation showing at a minimum, the design, use of materials, finish grade line, hardscaping and orientation of buildings. In addition, the Planning Commission may require the submission of colored perspectives or architectural renderings.

(C) Upon receipt of a completed application for a certificate of appropriateness, which is accompanied by the material required by the provisions of division (B) of this section, the Clerk-Treasurer shall promptly transmit the application to the Planning Commission. The Planning Commission may establish rules of procedure regarding the method and timing of the acceptance and review of completed applications. All completed applications for a certificate of appropriateness shall be scheduled for hearing and heard, subject to such rules relating to the timing or completeness of submissions, not later than the second regular meeting to occur after the receipt of the completed application by the Planning Commission, unless extended upon written request of the applicant. The Planning Commission by motion may at any time request additional information or drawings relating to the proposal, and such application shall be deemed to be a "completed application" only after the receipt of such additional information, and for the purpose of receiving such information may delay the consideration of the application to a date not later than the next regular meeting occurring after such request.

(Ord. 584, passed 4-21-1986; Am. Ord. 675, passed 12-21-1992; Am. Ord. 04-2009, passed 7-20-2009)

§ 151.069 NOTICE OF HEARING AND TIME FOR CONSIDERATION.

(A) Notice of the hearing before the Planning Commission shall be published by posting copies thereof in the 5 most public places in the village, as determined by Village Council from time to time. The notice shall include the place, time and date of the hearing, the location of the property and the general nature of the proposed construction. An announcement shall be posted on the Village website, indicating the type of application as well as the date and time for the hearing, 7 days prior to the hearing date. Additionally, a notice containing the foregoing information shall be sent by first class mail to all property owners adjacent to the property for which the application was filed not less than 10 days prior to the date fixed for the hearing. Failure of any such property owner to receive mail notice does not invalidate the granting or denial of the certificate.

(B) The following persons may appear at hearings as parties and be heard in person or by attorney: the applicant; the owner of property that is the subject of the application, if the owner is not the applicant; the owner of property adjacent or contiguous to the property that is the subject of the application or who is the addressee of any notice provided for in division (A) of this section; and any other person who claims a direct, present injury or prejudice to any personal or property right or interest that will occur if the application is approved or denied.

(C) A person authorized to appear and be heard may: present his or her position, arguments and contentions; offer and examine witnesses and present evidence in support of his or her position, arguments, and contentions; cross-examine witnesses purporting to refute his or her position, arguments, and contentions; offer evidence and testimony to refute evidence and testimony offered in opposition to his or her position, arguments, and contentions; proffer any evidence or testimony into the record if such evidence or testimony has not been admitted by the Planning Commission.

(D) Hearings are open to the public, but are not public hearings. Any witness offering testimony or presenting evidence at a hearing shall be placed under oath prior to offering testimony or evidence. All hearings shall be recorded by tape recorder or other electronic means. The Planning Commission, at its option, may have a hearing transcribed by court reporter.

(Ord. 584, passed 4-21-1986; Am. Ord. 03-2007, passed 9-17-2007; Am. Ord. 04-2009, passed 7-20-2009)

151.070 STANDARDS FOR REVIEW; CERTIFICATE OF APPROPRIATENESS.

(A) The Planning Commission, in deciding whether to issue a certificate of appropriateness, shall determine that the application under consideration is in conformity with the requirements of the village ordinances with respect to the location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of hardscaping on the site and that the application will not be hazardous, inconvenient or in conflict with pedestrian or normal traffic movement, and promotes, preserves and enhances the distinctive architectural village character of the community. In conducting its review, the Planning Commission shall make examination of and give consideration to the elements of the application including, but not necessarily limited to:

- (1) Height, which shall include the requirements of all other village ordinances.
- (2) Building massing, which shall include in addition to the requirements of any other village ordinances, the relationship of the building width to its height and depth; and its relationship to the viewer's and pedestrian's visual perspective.

- (3) Window treatment, which shall include the size, shape and materials of the individual window units and the overall harmonious relationship of window openings.
- (4) Exterior detail and relationships, which shall include all projecting and receding elements of the exterior, including but not limited to, porches and overhangs and the horizontal or vertical expression which is conveyed by these elements.
- (5) Roof shape, which shall include type, form and materials.
- (6) Materials: texture and color, which shall include the appropriateness of the use of exterior design details.
- (7) Compatibility of design and details, which shall include the appropriateness of the use of exterior design details.

(B) In conducting its inquiry and review, the Planning Commission may request from the applicant such additional information, sketches and data as it shall reasonably require. It may call upon experts and specialists for testimony and opinion regarding the matters under examination. It may recommend to the applicant changes in the plans to comply with current ordinances that it considers desirable. The Planning Commission may accept a voluntary amendment to the application to include or reflect such changes. To expedite approval, the Planning Commissioner can approve minor alterations with the authorization of the Planning Commission, without calling a meeting; or can call an additional meeting of the Planning Commission to consider changes. The Planning Commission shall keep a record of its proceedings and shall append to the application copies of information, sketches and data needed to clearly describe any amendment to it.

(C) When its review is concluded, the Planning Commission will determine by a vote of its members, whether the application for a certificate of appropriateness shall be approved and shall adopt written findings of fact regarding the compliance of the application with the applicable statutory requirements. If approved by 3 or more of its members, the Planning Commission shall return the application and appended material to the Clerk-Treasurer, together with the written findings of fact regarding the application, with the instruction that the certificate of appropriateness be issued, provided all other requirements for a building permit, if applicable, are met. If not approved, the Planning Commission shall return the application and appended material, together with the findings of fact regarding the application, to the Clerk-Treasurer with the instruction that the certificate of appropriateness shall not be issued because the application did not meet the criteria and standards set forth herein. The Clerk-Treasurer shall promptly give to the applicant written notice of the determination of the Planning Commission and, if the application has been approved, shall issue the certificate of appropriateness to the applicant promptly after the expiration of the time within which an aggrieved party may appeal such action.

(Ord. 584, passed 4-21-1986; Am. Ord. 04-2009, passed 7-20-2009)

§ 151.071 ORDINARY REPAIR AND MAINTENANCE; DEMOLITION.

(A) Nothing in this subchapter shall be construed to prevent any ordinary repair or maintenance of an exterior architectural feature or any ordinary hardscaping now in the Village.

(B) Nothing in this subchapter shall be construed to prevent the demolition of a structure, whether public or private, within the Village.

(Ord. 584, passed 4-21-1986)

VARIANCES AND APPEALS

§ 151.090 PURPOSE AND AUTHORITY.

(A) Under some unusual circumstances, including (but not limited to) the peculiar size, shape or topography of land, full and strict compliance with all development standards of the zoning and building ordinances of the village could result in substantial hardship or injustice to the owner of the land, and could even result in undesirable development of the land. The Planning Commission may grant a variance to permit limited deviation from the development standards of the zoning ordinances of the village, pursuant to the criteria of § 151.093 of this subchapter, where the development resulting from granting the variance will be consistent with the general purpose and intent of the village's zoning ordinances.

(B) Variances shall not be granted to allow a use not permitted by the ordinances of the village in a particular zoning classification.

(Ord. 583, passed 4-21-1986)

§ 151.091 FILING AND FEE.

(A) Written application for a variance shall be made to the Planning Commission and filed with the Clerk-Treasurer, who shall transmit the application to the Planning Commission. The application shall be signed by the owner of the property affected and shall state that the information provided is accurate and truthful.

(B) The applicant shall pay a fee of \$200 to cover advertising, review and reporting the proceedings of the Planning Commission with respect to the requested variance.

(Ord. 583, passed 4-21-1986; Am. Ord. 05-2009, passed 7-20-2009)

§ 151.092 CONTENTS OF APPLICATION.

The application shall include:

(A) The name, address and telephone number of the owner of the property;

- (B) An accurate legal description of the property;
- (C) The exact nature of the variance requested, including reference to the particular standard and ordinance from which the applicant seeks deviation;
- (D) A statement explaining the relation of the requested variance to the criteria for approval as listed in § 151.093;
- (E) A list of all owners of property, including their mailing addresses, within 100 feet of, contiguous to, or directly across the street from the subject property;
- (F) Seven copies of a plot plan showing:
 - (1) Boundaries and dimensions of the property, the size and location of all proposed or existing structures and the location of trees and shrubs;
 - (2) The nature of the special conditions or circumstances affecting the property;
 - (3) The proposed use of all parts of the lot and structures;
 - (4) The use of land and the location of structures on adjacent property; and
- (G) Any additional information required by the Planning Commission to establish the advisability of granting the variance.

(Ord. 583, passed 4-21-1986; Am. Ord. 05-2009, passed 7-20-2009)

§ 151.093 CRITERIA FOR APPROVAL.

The following considerations shall be examined in the review and the public hearing of an application for variance:

- (A) That special circumstances or conditions exist which are peculiar to the land or structure(s) involved and which are not applicable to other lands or structures in the village.
- (B) That a literal interpretation of the provisions of this Zoning Ordinance would result in practical difficulties for the owner of the property. The factors to be considered by the Planning Commission in making this determination are:
 - (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
 - (2) Whether the variance is substantial.
 - (3) Whether the essential character of the neighborhood would be substantially altered, or whether adjoining properties would suffer a substantial detriment as a result of the variance.

(4) Whether the variance would adversely affect the delivery of governmental services.

(5) Whether the property owner purchased the property with knowledge of the zoning restriction.

(6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance.

(7) Whether the spirit and intent behind the zoning requirement would be required to be observed and substantial justice done by granting the variance.

(C) That the special conditions and circumstances do not result from the actions of the applicant.

(D) That the granting of the variance will in no other manner adversely affect the health, safety and general welfare of the persons residing or working within the vicinity of the proposed variance, and not diminish or impair established property values within the surrounding areas, and not unreasonably increase the congestion in public streets.

(Ord. 583, passed 4-21-1986; Am. Ord. 05-2009, passed 7-20-2009)

§ 151.094 PROCEDURES.

(A) *Procedure.* All completed applications for variances filed with the Planning Commission shall be scheduled for hearing and heard, subject to rules adopted by the Planning Commission relating to the timing or completeness of submissions, not later than the second regular meeting to occur after the submission of the application, unless extended upon written request of the applicant. The Planning Commission by motion may at any time request additional information or drawings relating to the proposed variance, and such application shall be deemed to be a "completed application" only after the receipt of such additional information, and for the purpose of receiving such information may delay the consideration of the application to a date not later than the next regular meeting occurring after such request.

(B) *Notice of hearing and time for consideration.* Notice of the hearing before the Planning Commission shall be published by posting copies thereof in the 5 most public places in the village as determined by Village Council from time to time. The notice shall include the place, time and date of the hearing, the location of the property and the nature of the proposed variance. An announcement shall be posted on the Village website, indicating the type of application as well as the date and time for the hearing, 7 days prior to the hearing date. Additionally, a notice containing the foregoing information shall be sent by first class mail to all property owners listed on the application filed pursuant to § 151.092 hereof, not less than 10 days prior to the date fixed for the hearing. Failure of any such property owner to receive mail notice does not invalidate the granting or denial of the variance. The Planning Commission may continue an on-going hearing from date to date without additional notice.

(C) *Public hearing.*

(1) The following persons may appear at hearings as parties and be heard in person or by attorney: the applicant; the owner of property that is the subject of the application, if the owner is not the applicant; the owner of property adjacent or contiguous to the property that is the subject of the application or who is the addressee of any notice provided for in division (B) of this section; and any other person who claims a direct, present injury or prejudice to any personal or property right or interest that will occur if the application is approved or denied.

(2) A person authorized to appear and be heard may: present his or her position, arguments and contentions; offer and examine witnesses and present evidence in support of his or her position, arguments, and contentions; cross-examine witnesses purporting to refute his or her position, arguments, and contentions; offer evidence and testimony to refute evidence and testimony offered in opposition to his or her position, arguments, and contentions; proffer any evidence or testimony into the record if such evidence or testimony has not been admitted by the Planning Commission.

(3) Hearings are open to the public, but are not public hearings. Any witness offering testimony or presenting evidence at a hearing shall be placed under oath prior to offering testimony or evidence. All hearings shall be recorded by tape recorder or other electronic means. The Planning Commission, at its option, may have a hearing transcribed by court reporter.

(D) *Decisions; issuance of Certificate of Appropriateness*

(1) The Planning Commission shall grant or deny the variance not later than the next regular meeting at which the public hearing is completed, after considering the requirements listed in § 151.093. The Planning Commission's final decision shall be in writing, shall be accompanied by a finding of fact and statement of reasons for the decision reached and shall be filed with the Village Clerk-Treasurer, and shall become a part of the public record. A certified copy of the decision of the Planning Commission shall be transmitted by the Village Clerk-Treasurer to all parties to the hearing and all persons who claimed a right but were not permitted to appear as parties to the hearing, by personal service or by regular United States mail.

(2) In granting such variance, the Planning Commission may impose such conditions as are reasonably necessary to serve the purpose and objectives of the village's zoning ordinances, but only with the expressed consent of the applicant. The Clerk-Treasurer shall incorporate the terms and conditions of such decision in any Certificate of Appropriateness granted to the applicant.

(Ord. 583, passed 4-21-1986; Am. Ord. 03-2007, passed 9-17-2007; Am. Ord. 05-2009, passed 7-20-2009)

§ 151.095 NO EFFECT ON EXISTING ORDINANCES.

The terms of this subchapter shall supplement and shall not supplant the provisions of existing ordinances regulating zoning and building construction in the village. In particular, the granting of a variance as provided herein shall not be construed to alter the provisions of the applicable ordinances.

(Ord. 583, passed 4-21-1986)

§ 151.072 APPEALS.

- (A) Any person, firm or corporation who appeared or who attempted to appear at the hearing before the Planning Commission and who is aggrieved by any decision of the Planning Commission involving an application for certificate of appropriateness, or application for variance, may appeal such decision to the Village Council by filing a notice of intent to appeal with the Clerk-Treasurer within 10 days from the date of the decision, setting forth the facts of the case.
- (B) If the Mayor believes that a decision of the Planning Commission is illegal, arbitrary, capricious or in violation of existing law, regardless of whether the Mayor appeared at the hearing at which the decision was taken, then the Mayor may appeal such decision to Village Council by filing a notice of intent to appeal with the Clerk-Treasurer within 10 days from the date of the decision, setting forth the facts of the case.

(C) At its next regularly scheduled or special meeting occurring at least 5 days after the filing of the notice of intent to appeal, Council may then elect to consider the appeal by the affirmative vote of a majority of its members, or failing to so elect, shall reject the application for appeal. If the Mayor is the appellant, Council shall appoint another of its members to conduct any consideration related to such appeal, and the Mayor shall not vote on any matters related thereto. In the event Council elects to consider an appeal, the hearing shall be held not later than 60 days after Council determines to hold such a hearing. Council should not consider or take into account any material or information presented by the aggrieved party that has not been previously considered by the Planning Commission. Only the appellant and any person who appeared before the Planning Commission regarding such matter shall be entitled to participate in the hearing before Council. In considering such appeal, Council shall rely solely on the record and evidence presented to the Planning Commission, and any transcript of such hearing, and shall not consider any additional evidence, material or information presented by any person, unless Council by motion determines that the appellant did not have an opportunity to present evidence to the Planning Commission or did not have the opportunity to cross-examine witnesses at that hearing.

(D) Council may affirm the decision of the Planning Commission, reverse the decision of the Planning Commission or, with the agreement of the appellant, remand the decision to the Planning Commission for further consideration; provided that Council may reverse the decision of the Planning Commission only if the Council, by a majority vote of its members, determines that the decision was arbitrary or capricious, was based upon an erroneous finding of a material fact, constituted an abuse of discretion or was

based upon an erroneous interpretation of the Riverlea Zoning Code or otherwise applicable law. If Council fails to reverse the decision of the Planning Commission or to remand the decision to the Planning Commission, such appeal shall be denied. The decision shall be final, subject to the rights of any party to appeal Council's actions pursuant to R.C. Chapter 2506.

(Ord. 584, passed 4-21-1986; Am. Ord. 04-2009, passed 7-20-2009)

ENFORCEMENT

§ 151.110 APPLICABILITY TO CERTIFICATES OF APPROPRIATENESS ALREADY ISSUED.

No changes to existing ordinances shall be applied retroactively to a Certificate of Appropriateness already issued, provided that the Certificate of Appropriateness in question has not expired. For good cause shown, satisfactory to the Planning Commissioner the expiration date of a Certificate of Appropriateness may be extended with right of appeal to Council or the Planning Commission as provided elsewhere herein.

(Ord. 228, passed 6-12-1964)

§ 150.057 SUBSTANTIAL IMPROVEMENTS; BOND, COMPLIANCE WITH REGULATIONS REQUIRED.

(A) No Certificate of Appropriateness authorizing construction of a substantial improvement valued \$20,000 or higher to an existing dwelling shall be granted until the owner of the lot for which the permit is sought shall provide to the village a cash deposit or a bond in the sum of 10% of the estimated total cost of the improvement, but not less than \$2,000 or more than \$10,000, conditioned upon the full and faithful performance and compliance with all the provisions of this chapter, and to indemnify the village for any damage to the streets or curbs of the village occasioned by the construction activity.

(B) As used in this chapter, ***SUBSTANTIAL IMPROVEMENT*** shall mean any improvement to the exterior of an existing building where the total cost of all improvements to the building is reasonably determined or estimated to equal or exceed \$20,000. The cost of all other improvements to or on the building or lot constructed at substantially the same time shall also be included in this estimated cost. In addition, any improvement that requires a curb cut or any other construction activity within the street right-of-way to which such property abuts shall also be considered a substantial improvement.

(C) If the Planning Commissioner determines that the substantial improvement was not completed in accordance with the plan approved by the Planning Commission, the Village may retain all or a portion of the bond or deposit.

(Ord. 740, passed 2-18-1997)

§ 151.999 PENALTY.

Any person who violates a provision of this chapter or fails to comply therewith, and any owner upon whose real property the violation occurs, shall severally, for each and every such violation and noncompliance, be fined pursuant to current rates set by the Franklin County Municipal Court. Each 24-hour period during which such violation or noncompliance continues shall constitute a separate violation. The imposition of a penalty for the violation of this chapter shall not excuse the violation or permit it to continue. The application of the above penalty shall not be held to prevent the enforced removal of any prohibited condition.

(Ord. 228, passed 6-12-1964; Am. Ord. 675, passed 12-21-1992)

Section 2. THE STATUTES TO BE AMENDED. That pursuant to the requirements of Sections 731.19, Ohio Revised Code, the existing Riverlea Code Chapter 151, which is amended by Section 1 above, is hereby set forth:

GENERAL PROVISIONS

§ 151.001 SCOPE OF REGULATIONS.

The type of architecture, height, location of buildings and other structures hereafter erected or altered, the bulk and location of buildings and other structures hereafter erected or altered, and the percentage of lot occupancy set-back, building lines and area of yards and other open spaces, be and hereby are regulated, restricted and limited in the manner and form provided hereunder.

(Ord. 228, passed 6-12-1964)

§ 151.002 APPLICATION OF STATE LAW AS TO DIVISION OF LAND; COUNCIL APPROVAL.

(A) The provisions of R.C. §§ 711.01 to 711.39, inclusive, shall apply to the division of any parcel of land in the village by an instrument of conveyance.

(B) Any instrument of conveyance which if recorded would result in a "subdivision" (as such term is defined in R.C. § 711.001(B)) of land in the village shall be submitted to Village Council for approval in accordance with the standards set forth in R.C. § 711.131 and may only be recorded by the Franklin County Recorder if a properly designated

representative of Village Council indicates Council's approval of such subdivision by noting on the face of the instrument of conveyance: "Approved by Village of Riverlea; No Plat Required." The designated representative shall also sign his or her name to the notation.

(C) (1) Village Council shall approve no instrument of conveyance which, if recorded, would result in a "subdivision" (as such term is defined in R.C. § 711.001(B)) of land in the village, unless the newly designated parcel created as a result of such instrument conveyance has continuous frontage upon a publicly-dedicated and improved street for a distance that is at least as great as the greater of the following 2 distances: 50 feet, and a distance equal to the arithmetic average of the street frontage of all lots that are both located on the same street and within 500 feet of the outside boundaries of the new lot created by such instrument of conveyance.

(2) As used in this division (C), the term LOT shall mean any of the following:

(a) Any lot or parcel of property, including any reserve, identified for separate conveyance on the original plat of the subdivision of The Van de Boe-Hager Co. Addition No. 11 Known as Riverlea, of record in Plat Book 16, at Page 55, in the Office of the Recorder of Franklin County, Ohio, or if not included within such plat, then as such parcel was separately owned on the date of incorporation of the village;

(b) Any lot or parcel of property separately identified as an individual tax parcel or to which a separate parcel identification number was assigned on the records of the Franklin County Auditor as of June 16, 2008;

(c) All or any part of a street or alley originally identified on the original plat of the subdivision of The Van de Boe-Hager Co. Addition No. 11 Known as Riverlea, of record in Plat Book 16, at Page 55, in the Office of the Recorder of Franklin County, Ohio, but which part of a street or alley has subsequently been vacated and is no longer maintained for public use.

(3) In determining the 'arithmetic average' of the street frontage of lots located on the same street for purposes of this division (C):

(a) Only those lots located on the same side of the street as the parcel for which the computation is made is located shall be included;

(b) The term lot shall have the above described meaning even though 1 or more lots, or parts thereof, have been combined into a single tax parcel by the Franklin County Auditor; and

(c) In determining the frontage of corner lots, i.e., lots that border more than 1 street as originally platted, the lot lines along each street shall be extended into the street right-of-way to the point of intersection, and such point shall be used as the corner of the lot for purposes of determining the street frontage of that lot.

(Ord. 714, passed 12-19-1994; Am. Ord. 02-06, passed 6-19-2006; Am. Ord. 03-06, passed 7-10-2006; Am. Ord. 04-2008, passed 10-20-2008)

§ 151.003 REGULATING CONSTRUCTION IN FLOOD PRONE AREAS.

(A) Definitions. As used in this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) FLOOD HAZARD AREA. All those portions of land within the corporation limits of the village from time to time that are also identified as "Special Flood Hazard Areas Inundated By 100-Year Flood" or as "Floodway Areas in Zone AE" on the Flood Insurance Rate Map for Franklin County, Ohio and Incorporated Areas, prepared for the National Flood Insurance Program by the Federal Emergency Management Agency, that is effective as of August 2, 1995, as the same shall be amended from time to time after that date including, but not exclusively, amendments thereto that shall be effective as of April 21, 1999, which maps are hereby incorporated by reference as part of this chapter.

(2) STRUCTURE. Shall have the same meaning as that word is defined in § 151.066 of this chapter.

(B) Development prohibited.

(1) No building or structure shall hereafter be constructed, erected, altered, enlarged or remodeled within the flood hazard area of the village, and no permit shall be issued pursuant to Chapter 150 of this code, or any subsequent ordinance of this village, and no such permit, if issued after the effective date of this chapter, shall be valid or confer any rights upon the holder thereof, if such permit provides for the construction, erection, alteration, enlargement or remodeling of any structure located, in whole or in part, within the flood hazard area of the village, unless there is first issued and then remains unexpired and outstanding any certificate of appropriateness for such construction as required by this chapter and the applicable provisions of any other ordinance of this village. A certificate of appropriateness for construction within a flood hazard area of the village shall be subject to the provisions of §§ 151.065 through 151.074 of this chapter, and the further provisions of this chapter, all as may hereafter be amended.

(2) Anyone seeking the issuance of a certificate of appropriateness for any structure to be located, in whole or in part, within the flood hazard area of the village, must provide as part of the application therefor, compelling evidence that the structure shall comply with the following restrictions:

(a) The structure shall not be used other than for non-commercial gardening, park, recreational or similar uses incident to the use of a single family residence located on the lot in an area outside the flood hazard area. In no instance will the flood hazard area be considered suitable or permissible for the location of residential structures;

(b) Any structure or other development in the flood hazard area shall be:

1. Anchored to resist flotation, collapse or lateral movement;
2. Constructed with materials and utility equipment resistant to flood damage;
3. Constructed using methods and practices that are designed to control erosion and minimize flood damage.

(c) No land lying within a flood hazard area of the village shall be filled in any manner whatsoever, except for control of erosion caused by river flow, and any such fill placed for erosion purposes within the flood hazard area must meet the encroachment provisions of division (e) below of this section.

(d) No land lying in the flood hazard area shall be excavated in any manner except pursuant to a grading plan approved by the Architectural Review Commission; and

(e) No encroachment, including fill, new construction, substantial improvements, or other development may be placed within the flood hazard area unless a technical evaluation demonstrates that the proposed encroachment shall not result in any increase flood levels during the occurrence of a 100-year discharge.

(3) No certificate of appropriateness shall be issued for construction within a flood hazard area in the village that does not provide compelling evidence of the compliance with or inapplicability of all the foregoing restrictions or conditions.

(Ord. 764, passed 4-19-1999)

GENERAL REGULATIONS

§ 151.020 SINGLE FAMILY DWELLING RESIDENCE LIMITATION; ACCESSORY USES AND HOME OCCUPATION USES.

(A) Single family residences permitted. No person shall construct, occupy or use any land, lot, premises, building or structure in the village for any purpose or use other than as a single family dwelling, as an accessory use to a single family dwelling, or as a permitted home occupation, as such terms are defined in this section, and otherwise subject to the other provisions of this chapter. No more than 1 single family dwelling, or part thereof, shall be located on any lot within the village. No single family dwelling shall be occupied by more than 1 family or household. No land, lot, premises, building or structure in the village shall be constructed, occupied or used for any trade, industry or other commercial use other than a home occupation. As used in this section:

(1) LOT shall have the meaning ascribed to that term in § 151.022;

(2) FAMILY means 1 or more persons occupying a single dwelling unit, provided that unless all members are related to 1 or more other occupants by blood, adoption, foster or custodial status, or marriage, no such family shall contain over 5 persons; and

(3) SINGLE FAMILY DWELLING means a detached residential dwelling unit other than a mobile home designed for and occupied by 1 family or household only.

(B) Certain accessory uses permitted. ACCESSORY USE means a use of any land, lot, premises, building or structure that is subordinate to the principal use of any land, lot, premises, building or structure as a single family residence, and that serves a purpose customarily incidental to the principal use, which principal use is located on the same lot, or on an adjacent lot that is under common ownership with the lot, on which the accessory use occurs.

(C) Existing nonconforming uses; continuation. The lawful, nonconforming use of any land, lot, premises, building or structure existing at the time of the adoption of this section may be continued, although such use, building, structure or land does not conform with the provisions of this title; except that, unless required by law, no existing building, structure or land devoted to a use not permitted by this title or used in a manner not conforming to the other provisions of this title, shall be enlarged, extended, expanded, subdivided, changed or structurally altered, unless the use thereof is changed to a use permitted by this title and conforming to all the other provisions hereof.

(D) Permitted home occupations. HOME OCCUPATION means an occupation, profession, activity, or use that is clearly an incidental, secondary or customary use of a residential dwelling unit, which does not alter the exterior character or appearance of the dwelling or any other building or structure on the lot, which is carried on solely within the principal dwelling unit, and with respect to which the owner or occupant of the lot has delivered written notice thereof to the Mayor or his or her designee as set forth herein. No person shall construct, occupy or use any land, lot, premises, building or structure in the village for a home occupation except in conformity with the provisions of this section.

(1) No person other than members of the family residing on the premises shall be engaged in such home occupation, except that in connection with the practice of a profession which can be practiced only with the assistance of supportive personnel, one person not residing in such dwelling unit may be so employed;

(2) Not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation;

(4) No home occupation shall be conducted in any yard or accessory building, and no storage of equipment or materials used in a home occupation shall be outside the principal residence;

(5) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood, and no more than 1 vehicle shall be used in connection with a home occupation;

(6) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises; and

(7) Any person who conducts an occupation, profession, activity, or use of property in the village in reliance on the provisions of this section that permit the conduct of home occupations, shall notify the Mayor or his or her designee in writing that such activity has or will occur, such notice to be delivered not later than 7 days after the first date on which such occupation, profession, activity or use of property first occurs, and shall describe the nature of the activity, the persons conducting such activity and the times during which such activity may be conducted.

(Ord. 228, passed 6-12-1964; Am. Ord. 01-2009, passed 4-20-2009)

§ 151.021 ARCHITECTURE AND TYPE OF MATERIAL.

The type of architecture and materials to be used for buildings shall be approved by the Building Inspector prior to the granting of a building permit with the right of appeal by the owner within 30 days to the Village Council or such Zoning Commission as may hereafter be established with jurisdiction over such matters. Decision of the Village Council or such Commission shall be final.

(Ord. 228, passed 6-12-1964)

§ 151.022 HEIGHT AND AREA LIMITATIONS.

(A) No building or other structure shall hereafter be erected to a height of more than 2½ stories.

(B) No house shall be erected on any lot or parcel of land containing less than 5000 square feet per house; provided that one single family dwelling may be erected on any lot now separately owned as shown by the records in the office of the County Recorder of Franklin County, Ohio.

(C) (1) No house or other residential structure shall be erected or constructed on any lot or parcel of land containing less linear frontage on publicly-dedicated and improved street than the greater of the following 2 distances: 50 feet, and a distance equal to the arithmetic average of the street frontage of all lots located both on the same street and within 500 feet of the outside boundaries of such lot or parcel; provided that 1 single-family dwelling may be erected on any lot now separately owned as shown by the records in the office of the County Recorder of Franklin County, Ohio and for which the County Auditor of Franklin County, Ohio, now maintains a separate tax parcel identification number.

(2) As used in this division (C), the term LOT shall mean any of the following:

(a) Any lot or parcel of property, including any reserve, identified for separate conveyance on the original plat of the subdivision of The Van de Boe-Hager Co. Addition No. 11 Known as Riverlea, of record in Plat Book 16, at Page 55, in the Office of the Recorder of Franklin County, Ohio, or if not included within such plat, then as such parcel was separately owned on the date of incorporation of the village;

(b) Any lot or parcel of property separately identified as an individual tax parcel or to which a separate parcel identification number was assigned on the records of the Franklin County Auditor as of June 16, 2008;

(c) All or any part of a street or alley originally identified on the original plat of the subdivision of The Van de Boe-Hager Co. Addition No. 11 Known as Riverlea, of record in Plat Book 16, at Page 55, in the Office of the Recorder of Franklin County, Ohio, but which part of a street or alley has subsequently been vacated and is no longer maintained for public use.

(3) In determining the 'arithmetic average' of the street frontage of lots located on the same street for purposes of this division (C):

(a) Only those lots located on the same side of the street as the parcel for which the computation is made is located shall be included;

(b) The term 'lot' shall have the above described meaning even though 1 or more lots, or parts thereof, have been combined into a single tax parcel by the Franklin County Auditor; and

(c) In determining the frontage of corner lots, i.e., lots that border more than 1 street as originally platted, the lot lines along each street shall be extended into the street right-of-way to the point of intersection, and such point shall be used as the corner of the lot for purposes of determining the street frontage of that lot.

(D) Structures (including all buildings), parking areas (including garages, parking pads and driveways), decks, patios, swimming pools, sidewalks and other hard-surfaced areas shall not cover more than 40% of the total lot area on any lot or parcel. (Ord. 228, passed 6-12-1964; Am. Ord. 02-06, passed 6-19-2006; Am. Ord. 03-06, passed 7-10-2006; Am. Ord. 04-2008, passed 10-20-2008)

§ 151.023 YARD RESTRICTIONS.

(A) Front yard restrictions. No buildings or other structures or any part thereof shall be erected nearer to the street line (meaning thereby the boundary line between the lot and the area dedicated for highway purposes along the front of the lot) than 35 feet; provided, however, that if houses have already been built on the street, the front building line of such new building or structure shall be set back the same set back distance from the street

line as the nearest existing 2 houses on the same side of the street or where the set back distance of the 2 existing houses is different, then the average set back distance of the 2 houses; provided further that on the west side of Olentangy Boulevard due to the topography the set back distance shall be such distance as is approved by the Building Inspector, with right of appeal to Council or the Zoning Commission within 30 days after an adverse decision, as provided in this chapter.

(B) Side yard restrictions. No dwelling house or other structure shall hereafter be erected closer to the adjoining lot line than 10 feet. Said side yard shall be unobstructed from the established grade of the lot and the sky except for cornices or other obstructions of an ornamental nature, providing such obstructions do not extend into the side yard more than 18 inches. In the event the owner of a lot owns an adjoining lot or lots and desires to use more than one lot for such single dwelling house purpose (with necessary and proper out-buildings) a variance may be granted for modification of the side yard restriction by Council or such Commission as may be established to administer these provisions.

(C) Rear yard restrictions. Behind and immediately adjacent to every dwelling house hereafter erected there shall be an open, unoccupied yard extending across the entire width of the lot. The rear yard shall be 15% of the length of the entire lot, but in no case shall it be less than 10 feet. The depth of the rear yard shall be measured from the extreme rear line of the house. The provisions of this division (C) shall not prevent the use of a portion of the rear yard for garage purposes.

(Ord. 228, passed 6-12-1964; Am. Ord. 571, passed 4-18-1985)

§ 151.024 CHANGES IN GRADE LEVEL.

No lot owner shall at the time of construction of any building or thereafter change the grade level of his or her lot or any portion thereof so as to cause any appreciable change in the flow of surface water to the detriment of another lot owner. Every proposed appreciable change in grade level shall be submitted for approval to the Building Inspector by the lot owner and a permit therefor obtained before such grade level change shall be made.

(Ord. 228, passed 6-12-1964)

§ 151.025 MINIMUM REQUIREMENTS FOR GARAGES.

Private garages as an accession to a single dwelling house shall be limited as follows: 1-, 2-, or 3-car garages may be built on the same lot with a dwelling house, providing such garages are located at least 10 feet in the rear of the dwelling house.

(Ord. 228, passed 6-12-1964)

§ 151.026 CORNER LOT RESTRICTIONS.

No building shall be erected on a corner lot nearer than 20 feet to the side street line (meaning the boundary line between such lot and the area dedicated for highway purposes along the side thereof) and any detached garage or other out-building shall be erected as far from such side street line as possible and in no case nearer to such side street line than 30 feet; provided, however, on corner lots having a width of 50 feet or less, the building set-back line shall be at least 10 feet from the side street line and all detached garages or other out-buildings shall be constructed at least 20 feet from the side street line.

(Ord. 228, passed 6-12-1964)

§ 151.027 MISCELLANEOUS RESTRICTIONS.

No buildings or premises shall hereafter be erected, altered or used for any of the following purposes: Multiple dwellings, billboards or advertising signs, refuse dumps, storage or any other purposes which may cause noxious odors, danger of explosion undue fire hazards or such noise as to be a public nuisance. No premises shall be used for sand, gravel or dirt pits or for removal of sod for sale, except by special permit issued by the Village Council or such Zoning Commission as may be established under this chapter. The enumeration in this section of specific prohibited uses shall not in any manner limit the generality of the restrictions and limitations contained in other sections of this chapter.

(Ord. 228, passed 6-12-1964)

§ 151.028 PARKING HOUSE TRAILERS

It shall be unlawful to park house trailers within the village more than 24 hours unless confined within an enclosure to obstruct its view from the streets.

(Ord. 228, passed 6-12-1964) Penalty, see § 151.999

§ 151.029 DUMPSTERS AND TEMPORARY STORAGE FACILITIES.

(A) Definitions. As used in this section:

(1) PORTABLE STORAGE UNIT(S). Any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is designed or intended to be located for such purposes outside an enclosed building for a temporary period of time until the portable storage unit is moved to an off-site location.

(2) DUMPSTER. Any bulk container placed for use as a depository for refuse, trash, garbage, construction materials or debris, except that the term DUMPSTER shall not include any such container that by size may not hold in excess of 90 gallons of materials.

(B) Usage, frequency and duration.

(1) Usage of portable storage unit. No portable storage unit shall be placed or maintained on any real property, public or private, within the village except in accordance with the requirements of this section. No portable storage unit shall be placed or maintained on any real property, public or private, within the village except that 1 portable storage unit may be located or maintained by a person upon real property under the ownership or control of that person within the village either to hold or to secure property of such person that cannot conveniently be maintained within a residential structure upon such real property as a result of construction work within such residential structure; or for loading or unloading property when moving to or from a residential structure located on such real property.

(2) Usage of dumpsters. No dumpster shall be placed or maintained on any real property, public or private, within the village except in accordance with the requirements of this section. No dumpster shall be placed or maintained on any real property, public or private, within the village except that 1 dumpster may be used for holding refuse, garbage, construction materials or debris when cleaning, maintenance or other construction work on a property or a residential structure located on such lot may require a place to throw away large amounts of waste; or for holding waste when moving to or from a structure located on that lot.

(3) Frequency and duration. As used in this section, an "event" shall consist of the delivery and pick-up of the portable storage unit or multiple deliveries and pick-ups within a consecutive 30 calendar day period. No portable storage units and no dumpsters, otherwise permitted by this section to be placed or maintained on any real property within the village, shall be maintained for a period of time in excess of 30 successive calendar days per event, and no person shall cause more than 3 events per calendar year to occur with respect to any single residential structure located in the village. There shall be at least 30 calendar days in between each event. Notwithstanding the foregoing, upon application, the Planning Commission may permit the occurrence of an event lasting more than of 30 calendar days described above, provided a certificate of appropriateness is issued pursuant to § 151.070 for the construction or other activity on the property for which the portable storage units or dumpster is required.

(4) Location. No portable storage units or dumpsters shall be located in any street or public right-of-way, except as part of construction activity being conducted by or on behalf of a governmental unit within a street or public right-of-way. No portable storage units or dumpsters designed to serve the occupants of any private property shall be located other than in a driveway, rear or side yard of such property and not closer to a street or lot line than any front, side or rear yard setback required for the construction of buildings upon such property. No portable storage units or dumpsters designed to serve the occupants of any private property shall be located closer than 15 feet to any residential structure located on an adjacent parcel of land.

(D) Responsibilities of vendors and users. The vendor of any portable storage unit or dumpster shall ensure that the unit is in good condition, free from evidence of

deterioration, weathering, discoloration, rust, ripping, tearing or other holes or breaks. When not being accessed immediately by a person, the portable storage unit shall be kept locked. Dumpster lids and doors shall be kept tightly and completely closed when not in use. No hazardous substances may be stored or kept within a portable storage unit and/or dumpster. The area surrounding the dumpster shall be kept clean and free of loose debris. The vendor shall indicate their name and contact telephone number on the portable storage unit or dumpster.

(E) Relationship to other laws. Nothing in this section is intended to limit or supersede any other provision of the Riverlea Codified Ordinances or applicable laws of the State of Ohio, including those that regulate the use of property within the village or activities thereon. Anyone who violates any provision of this section shall be subject to the penalties provided in § 151.999.

(Ord. 06-2008, passed 11-17-2008) Penalty, see § 151.999

FENCES, WALLS, HEDGES, SHRUBS, AND OTHER PLANTINGS

§ 151.040 DEFINITIONS.

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

BUILDING. As used in § 151.044(C), shall mean all structures greater than 10 feet in width and 10 feet in length used for residential purposes or storing objects. Such definition shall include but not be limited to garages, houses and toolsheds.

FENCE and WALL. Any structure composed of wood, metal, stone, brick or other material erected in such a manner and position as to enclose, partially enclose or divide any premises or any part of any premises. Trestles or other structures supporting or for the purpose of supporting vines, flowers or other vegetation when erected in such a position as to enclose, partially enclose or divide any premises or part of any premises shall also be considered as fences.

FRONT YARD or SIDE YARD. Refers to the area between 10 feet from the front or side wall of the dwelling house on any lot and the 'street line' as defined below in this section.

HEDGES AND SHRUBS. Shall not be considered fences but are regulated in § 151.044.

SOLID FENCES AND WALLS. Those fences and walls which have less than 40% free or open area. Gates and gate openings shall not be counted as free or open areas when determining whether a fence is solid.

STREET LINE. The boundary line between a lot and the area dedicated for highway purposes along the front or side of such lot.

(Ord. 472, passed 6-16-1980)

§ 151.041 PERMIT REQUIREMENT.

(A) No fence or wall shall be erected until a permit for such purpose has been issued by the Building Inspector.

(B) A fee of \$5 shall be charged for processing the permit application.

(C) Application for such permit shall be made in writing and shall be accompanied by plans or drawings showing the actual shape and dimension of a lot on which the fence or wall is to be constructed, the exact location, height, length, type of material and type of construction of such proposed fence or wall and the location of all buildings on the lot and on adjoining lots.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

§ 151.042 PROHIBITED TYPES OF FENCES.

(A) Barbed wire fences, or fences or walls having cutting points or cutting edges, of any kind whatsoever, including without limitation wire or metal prongs or spikes, shall be prohibited.

(B) No walls or fences which have supporting members visible from any other property which adjoins or faces the walls or fences shall be permitted. This shall not apply to fences with vertical supporting members where the fence is designed to be identical in appearance from either side.

(C) Fences charged with electrical current shall be prohibited.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

§ 151.043 CONSTRUCTION REQUIREMENTS FOR SOLID FENCES AND WALLS.

Solid fences and walls shall be constructed of brick, stone or wood.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

§ 151.044 LOCATION RESTRICTIONS.

(A) No fence, hedge, building or wall of any kind shall be constructed in any front yard or any side yard abutting on a public street.

(B) Corner lots.

(1) On a corner lot, no vegetation or foliage shall be placed or maintained within 20 feet of the street line if such vegetation or foliage is greater in height than 2-1/2 feet above street grade.

(2) Trees are permitted if trimmed so that no foliage is less than 10 feet above street grade.

(3) If, in the judgment of the Planning Commission or the Marshal, the otherwise permitted vegetation or foliage will materially obstruct the view of a driver of a vehicle approaching a street intersection, that vegetation shall be removed within a reasonable time by the owner.

(4) Where vegetation is not trimmed or removed to comply with this section within 10 days after notice from the Mayor, the Mayor's designee, or the Marshal, it shall be lawful for persons employed by the village to enter upon such property and trim the shrubbery or hedge at the expense of the property owner. Any vegetation, tree, shrub or hedge found to be located upon public property may be removed by the village at any time.

(C) No fences, hedges or shrubbery over 48 inches in height above the plane of the finished grade of the lots at the division line between lots shall be erected, planted or maintained along or within 10 feet of the division line between lots. No trees shall be planted or maintained within 10 feet of the division line between lots unless no foliage of such trees is less than 10 feet above the finished grade of the lots at the division line between lots.

(D) The restrictions of § 151.044(C) shall not apply if any of the following events exist or occur:

(1) All parts of the fence, hedge or shrubbery are located 20 feet or more from any building located on the lot upon which the fence, wall, hedge or shrubbery is to be located and are also 20 feet or more from any building located upon the property upon which the fence, hedge or shrubbery borders;

(2) All lot owners upon whose property the fence, hedge or shrubbery borders have given written consent, which consent has been filed with the Planning Commission and the Clerk-Treasurer of the village; or

(3) A certificate of appropriateness has been issued for the construction, erection or maintenance of the fence, hedge or shrubbery in such location.

Nothing in this section shall alter any other requirement of the Codified Ordinances that a property owner first obtain a permit, certificate or variance before constructing, erecting or maintaining a fence or other structure; provided, however, that no variance shall be required for the erection, construction or maintenance of a fence within 10 feet of the

division line between adjacent lots if the fence height is either (a) less than 48 inches in height above the plane of the finished grade of the lots at the division line between lots, or (b) less than 72 inches in height above the plane of the finished grade of the lots at the division line between lots and one or more of the events described in § 151.044(C) has occurred.

(Ord. 472, passed 6-16-1980; Am. Ord. 09-2009, passed 12-21-2009) Penalty, see § 151.999

§ 151.045 HEIGHT RESTRICTIONS.

(A) Fences, walls, hedges or shrubbery over 6 feet in height shall be prohibited.

(B) Backstops for tennis courts and similar recreational activities may be erected to a height of more than 6 feet upon special permit granted by the Zoning Commission, in compliance with such terms and conditions as may be imposed by the Commission in connection with the granting of such permit.

(C) Construction on embankments. Where a fence is constructed on an embankment, or where the ground under the fence has been graded to a higher level than the surrounding ground, for the apparent purpose of increasing the height of the fence above the grade of adjacent ground, the permissible height of the fence, as above set forth, shall be reduced by the height of such embankment or grading, subject to the right of the owner to appeal from the decision of the Building Inspector or to seek a variance from the Zoning Commission. This division (C) shall in no way affect the height requirement in § 151.046 hereof for fences surrounding swimming pools.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

§ 151.046 SWIMMING POOL FENCING.

All swimming pools within the village are required to be fenced. The owner or agent of the owner of such a permanent swimming pool is required to completely enclose such pool by a fence of sturdy construction of not less than 42 inches nor more than 72 inches in height, measured from the level of the ground where located. Such fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence. Each gate in such fence shall be provided with a secure lock and shall be kept locked at all times when the pool is not in use, or is not under the immediate observation of a responsible person. No part of such fence shall be located between the front building line and the street on which the lot or parcel containing the swimming pool abuts. Nor shall such fence be located closer than 5 feet to any adjoining lots.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

Cross-reference:

Swimming pools within the village limits, see § 150.055

§ 151.047 INSPECTION AND MAINTENANCE.

(A) Inspection. It shall be the duty of each property owner to determine property lines and ascertain that the fence thus constructed does not deviate from the plans as approved by the Building Inspector, and the fence does not encroach upon another lot or parcel of land. The village shall furnish such inspection as it deems necessary to determine that the fence is constructed in accordance with plans submitted for the permit as outlined in § 151.041 hereof. However, the issuance of the permit by the village shall not be construed to mean that the village has determined the fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed upon him or her herein.

(B) Maintenance. It shall be the duty of each property owner to properly maintain any fence erected upon his or her property. If a fence is constructed of wood, then it must be suitably treated to prevent rot.

(Ord. 472, passed 6-16-1980) Penalty, see § 151.999

ARCHITECTURAL REVIEW DISTRICT

§ 151.065 PURPOSE.

The purpose of this subchapter is to maintain a high character of community development, to protect and preserve property, to promote the stability of property values and to protect real estate from impairment or destruction of value for the general community welfare by regulating the exterior architectural characteristics of structures throughout the village. It is the further purpose of this subchapter to recognize and preserve the distinctive historical and architectural character of this community which has been greatly influenced by the architecture of an earlier period in this community's history. These purposes will be served by the regulation of exterior design, use of materials, the finish grade line, landscaping and orientation of all structures hereinafter altered, constructed, reconstructed, erected, enlarged or remodeled in the village.

(Ord. 584, passed 4-21-1986)

§ 151.066 DEFINITIONS.

As used in this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

ground, and shall include, but without limiting the generality of the foregoing, all buildings, fences and walls.

(Ord. 675, passed 12-21-1992)

§ 151.067 DISTRICT BOUNDARIES.

There is hereby established an Architectural District which shall include all lots within the area of the corporate boundaries of the village, as established from time to time.

(Ord. 584, passed 4-21-1986)

§ 151.068 APPLICATION AND NOTICE.

(A) Whenever a structure, whether public or private, within the above described district is proposed to be constructed or erected and whenever an existing structure is proposed to be altered, reconstructed, enlarged or remodeled, if such alteration, reconstruction, enlargement or remodeling involves the exterior design, material, finish grade line, landscaping or orientation of the structure, an application for a certificate of appropriateness shall be filed with the Clerk-Treasurer together with a fee based upon the following schedule:

(1) If the cost of the proposed project is to be \$2,000 or less, the applicant shall pay a fee of \$10.

(2) If the cost of the proposed project is to exceed \$2,000, a fee of \$1 for each \$1,000 or fraction thereof of the estimated total cost shall be paid. In no case shall such fee be less than \$10 or more than \$200.

(B) The application shall be accompanied by a line drawing indicating at a minimum, the lot dimensions, size, shape and dimensions of the structure, the location and orientation of the structure on the lot and the actual or proposed building setback lines. In addition, the application shall be accompanied by a detailed narrative description of the proposed design or change of design, use of materials, finish grade line, landscaping and orientation of the structure. Applications for structures to be constructed or remodeled, which remodeling would increase or decrease the total gross building area by 50% or more, shall be accompanied by a colored elevation showing at a minimum, the design, use of materials, finish grade line, landscaping and orientation of buildings. In addition, the Planning Commission may require the submission of colored perspectives or architectural renderings.

(C) Upon receipt of a completed application for a certificate of appropriateness, which is accompanied by the material required by the provisions of division (B) of this section, the Clerk-Treasurer shall promptly transmit the application to the Planning Commission. The Planning Commission may establish rules of procedure regarding the method and timing of the acceptance and review of completed applications. All completed

applications for a certificate of appropriateness shall be scheduled for hearing and heard, subject to such rules relating to the timing or completeness of submissions, not later than the second regular meeting to occur after the receipt of the completed application by the Planning Commission, unless extended upon written request of the applicant. The Planning Commission by motion may at any time request additional information or drawings relating to the proposal, and such application shall be deemed to be a "completed application" only after the receipt of such additional information, and for the purpose of receiving such information may delay the consideration of the application to a date not later than the next regular meeting occurring after such request.

(Ord. 584, passed 4-21-1986; Am. Ord. 675, passed 12-21-1992; Am. Ord. 04-2009, passed 7-20-2009)

§ 151.069 NOTICE OF HEARING AND TIME FOR CONSIDERATION.

(A) Notice of the hearing before the Planning Commission shall be published by posting copies thereof in the 5 most public places in the village, as determined by Village Council from time to time. The notice shall include the place, time and date of the hearing, the location of the property and the general nature of the proposed construction. A sign indicating the type of application as well as the date and time for the hearing shall also be posted on the subject property at least 7 days prior to the hearing date. Additionally, a notice containing the foregoing information shall be sent by first class mail to all property owners adjacent to the property for which the application was filed not less than 10 days prior to the date fixed for the hearing. Failure of any such property owner to receive mail notice does not invalidate the granting or denial of the certificate.

(B) The following persons may appear at hearings as parties and be heard in person or by attorney: the applicant; the owner of property that is the subject of the application, if the owner is not the applicant; the owner of property adjacent or contiguous to the property that is the subject of the application or who is the addressee of any notice provided for in division (A) of this section; and any other person who claims a direct, present injury or prejudice to any personal or property right or interest that will occur if the application is approved or denied.

(C) A person authorized to appear and be heard may: present his or her position, arguments and contentions; offer and examine witnesses and present evidence in support of his or her position, arguments, and contentions; cross-examine witnesses purporting to refute his or her position, arguments, and contentions; offer evidence and testimony to refute evidence and testimony offered in opposition to his or her position, arguments, and contentions; proffer any evidence or testimony into the record if such evidence or testimony has not been admitted by the Planning Commission.

(D) Hearings are open to the public, but are not public hearings. Any witness offering testimony or presenting evidence at a hearing shall be placed under oath prior to offering testimony or evidence. All hearings shall be recorded by tape recorder or other electronic

means. The Planning Commission, at its option, may have a hearing transcribed by court reporter.

(Ord. 584, passed 4-21-1986; Am. Ord. 03-2007, passed 9-17-2007; Am. Ord. 04-2009, passed 7-20-2009)

§ 151.070 STANDARDS FOR REVIEW; CERTIFICATE OF APPROPRIATENESS.

(A) The Planning Commission, in deciding whether to issue a certificate of appropriateness, shall determine that the application under consideration promotes, preserves and enhances the distinctive historical village character of the community and would not be at variance with existing structures within that portion of the district in which the structure is or is proposed to be located as to be detrimental to the interests of the District as set forth in § 151.065 of this subchapter. In conducting its review, the Planning Commission shall make examination of and give consideration to the elements of the application including, but not necessarily limited to:

- (1) Height, which shall include the requirements of all other village ordinances.
- (2) Building massing, which shall include in addition to the requirements of any other village ordinances, the relationship of the building width to its height and depth, and its relationship to the viewer's and pedestrian's visual perspective.
- (3) Window treatment, which shall include the size, shape and materials of the individual window units and the overall harmonious relationship of window openings.
- (4) Exterior detail and relationships, which shall include all projecting and receding elements of the exterior, including but not limited to, porches and overhangs and the horizontal or vertical expression which is conveyed by these elements.
- (5) Roof shape, which shall include type, form and materials.
- (6) Materials: texture and color, which shall include the appropriateness of the use of exterior design details.
- (7) Compatibility of design and details, which shall include the appropriateness of the use of exterior design details.
- (8) Landscape design and plant materials, which shall include, in addition to requirements of the village's zoning and land ordinances, lighting and the use of landscape details to highlight architectural features or screen or soften undesirable views.

(B) In conducting its inquiry and review, the Planning Commission may request from the applicant such additional information, sketches and data as it shall reasonably require. It may call upon experts and specialists for testimony and opinion regarding the matters under examination. It may recommend to the applicant changes in the plans that it considers desirable and may accept a voluntary amendment to the application to include

or reflect such changes. The Planning Commission shall keep a record of its proceedings and shall append to the application copies of information, sketches and data needed to clearly describe any amendment to it.

(C) When its review is concluded, the Planning Commission will determine by a vote of its members, whether the application for a certificate of appropriateness shall be approved and shall adopt written findings of fact regarding the compliance of the application with the applicable statutory requirements. If approved by 3 or more of its members, the Planning Commission shall return the application and appended material to the Clerk-Treasurer, together with the written findings of fact regarding the application, with the instruction that the certificate of appropriateness be issued, provided all other requirements for a building permit, if applicable, are met. If not approved, the Planning Commission shall return the application and appended material, together with the findings of fact regarding the application, to the Clerk-Treasurer with the instruction that the certificate of appropriateness shall not be issued because the application did not meet the criteria and standards set forth herein. The Clerk-Treasurer shall promptly give to the applicant written notice of the determination of the Planning Commission and, if the application has been approved, shall issue the certificate of appropriateness to the applicant promptly after the expiration of the time within which an aggrieved party may appeal such action.

(Ord. 584, passed 4-21-1986; Am. Ord. 04-2009, passed 7-20-2009)

§ 151.071 ORDINARY REPAIR AND MAINTENANCE; DEMOLITION.

(A) Nothing in this subchapter shall be construed to prevent any ordinary repair or maintenance of an exterior architectural feature or any ordinary planting and landscaping now in the District.

(B) Nothing in this subchapter shall be construed to prevent the demolition of a structure, whether public or private, within the District.

(Ord. 584, passed 4-21-1986)

§ 151.072 APPEALS.

(A) Any person, firm or corporation who appeared or who attempted to appear at the hearing before the Planning Commission and who is aggrieved by any decision of the Planning Commission involving an application for architectural review, and the Mayor who believes the decision of the Planning Commission is illegal, arbitrary, capricious or violative of existing law, whether or not the Mayor appeared at such hearing, may appeal such decision to Village Council by filing notice of intent to appeal with the Clerk-Treasurer within 10 days from the date the decision, setting forth the facts of the case.

(B) At its next regularly scheduled or special meeting occurring at least 5 days after the filing of the notice of intent to appeal, Council may then elect to consider the appeal by the affirmative vote of a majority of its members, or failing to so elect, shall reject the

application for appeal. If the Mayor is the appellant, Council shall appoint another of its members to conduct any consideration related to such appeal, and the Mayor shall not vote on any matters related thereto. In the event Council elects to consider an appeal, the hearing shall be held not later than 60 days after Council determines to hold such a hearing. Council should not consider or take into account any material or information presented by the aggrieved party that has not been previously considered by the Planning Commission. Only the appellant and any person who appeared before the Planning Commission regarding such matter shall be entitled to participate in the hearing before Council. In considering such appeal, Council shall rely solely on the record and evidence presented to the Planning Commission, and any transcript of such hearing, and shall not consider any additional evidence, material or information presented by any person, unless Council by motion determines that the appellant did not have an opportunity to present evidence to the Planning Commission or did not have the opportunity to cross-examine witnesses at that hearing.

(C) Council may affirm the decision of the Planning Commission, reverse the decision of the Planning Commission or, with the agreement of the appellant, remand the decision to the Planning Commission for further consideration; provided that Council may reverse the decision of the Planning Commission only if the Council, by a majority vote of its members, determines that the decision was arbitrary or capricious, was based upon an erroneous finding of a material fact, constituted an abuse of discretion or was based upon an erroneous interpretation of the Riverlea Zoning Code or otherwise applicable law. If Council fails to reverse the decision of the Planning Commission or to remand the decision to the Planning Commission, such appeal shall be denied. The decision shall be final, subject to the rights of any party to appeal Council's actions pursuant to R.C. Chapter 2506.

(Ord. 584, passed 4-21-1986; Am. Ord. 04-2009, passed 7-20-2009)

§ 151.073 CONFORMITY REQUIRED.

No building or structure shall hereafter be constructed, erected, altered, reconstructed, enlarged or remodeled and no building, structure or part thereof that has been erected or altered in violation of the provisions of this subchapter after its effective date may be maintained, occupied or used, in either event if such alteration, reconstruction, enlargement or remodeling involves the exterior design, material finish grade line, landscaping or orientation of the building or structure, unless the owner of the real property upon which such building or structure is located shall have first obtained a certificate of appropriateness for such construction, erection, alteration, reconstruction, enlargement or remodeling in accordance with the provision of this subchapter or with the provisions of any prior ordinance of this village, except as specifically amended hereby.

(Ord. 675, passed 12-21-1992)

§ 151.074 VALIDITY OF CERTIFICATES OF APPROPRIATENESS.

No building permit shall be issued pursuant to Chapter 150 of this code, or any subsequent ordinance of this village, and no such permit, if issued after the effective date of this subchapter, shall be valid or shall confer any rights upon the holder thereof, unless there is first issued and there remains unexpired and outstanding any certificate of appropriateness for the construction, erection, alteration, reconstruction, enlargement or remodeling of the building or structure required by the provisions of this subchapter. A certificate of appropriateness issued pursuant to this subchapter shall expire within 12 months after the issuance thereof unless, within such 12 months, commencement of the work contemplated by such certificate has occurred.

(Ord. 675, passed 12-21-1992)

VARIANCES

§ 151.090 PURPOSE AND AUTHORITY.

(A) Under some unusual circumstances, including (but not limited to) the peculiar size, shape or topography of land, full and strict compliance with all development standards of the zoning and building ordinances of the village could result in substantial hardship or injustice to the owner of the land, and could even result in undesirable development of the land. The Planning Commission may grant a variance to permit limited deviation from the development standards of the zoning and building ordinances of the village, pursuant to the criteria of § 151.093 of this subchapter, where the development resulting from granting the variance will be consistent with the general purpose and intent of the village's zoning and building ordinances.

(B) Variances shall not be granted to allow a use not permitted by the zoning and building ordinances of the village in a particular zoning classification.

(Ord. 583, passed 4-21-1986)

§ 151.091 FILING AND FEE.

(A) Written application for a variance shall be made to the Planning Commission and filed with the Clerk-Treasurer, who shall transmit the application to the Planning Commission. The application shall be signed by the owner of the property affected and shall state that the information provided is accurate and truthful.

(B) The applicant shall pay a fee of \$200 to cover advertising, review and reporting the proceedings of the Planning Commission with respect to the requested variance.

(Ord. 583, passed 4-21-1986; Am. Ord. 05-2009, passed 7-20-2009)

§ 151.092 CONTENTS OF APPLICATION.

The application shall include:

- (A) The name, address and telephone number of the owner of the property;
- (B) An accurate legal description of the property;
- (C) The exact nature of the variance requested, including reference to the particular standard and ordinance from which the applicant seeks deviation;
- (D) A statement explaining the relation of the requested variance to the criteria for approval as listed in § 151.093;
- (E) A list of all owners of property, including their mailing addresses, within 100 feet of, contiguous to, or directly across the street from the subject property;
- (F) Seven copies of a plot plan showing:
 - (1) Boundaries and dimensions of the property, the size and location of all proposed or existing structures and the location of trees and shrubs;
 - (2) The nature of the special conditions or circumstances affecting the property;
 - (3) The proposed use of all parts of the lot and structures;
 - (4) The use of land and the location of structures on adjacent property; and
- (G) Any additional information required by the Planning Commission to establish the advisability of granting the variance.

(Ord. 583, passed 4-21-1986; Am. Ord. 05-2009, passed 7-20-2009)

§ 151.093 CRITERIA FOR APPROVAL.

The following considerations shall be examined in the review and the public hearing of an application for variance:

- (A) That special circumstances or conditions exist which are peculiar to the land or structure(s) involved and which are not applicable to other lands or structures in the village.
- (B) That a literal interpretation of the provisions of this Zoning Ordinance would result in practical difficulties for the owner of the property. The factors to be considered by the Planning Commission in making this determination are:

(1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.

(2) Whether the variance is substantial.

(3) Whether the essential character of the neighborhood would be substantially altered, or whether adjoining properties would suffer a substantial detriment as a result of the variance.

(4) Whether the variance would adversely affect the delivery of governmental services.

(5) Whether the property owner purchased the property with knowledge of the zoning restriction.

(6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance.

(7) Whether the spirit and intent behind the zoning requirement would be required to be observed and substantial justice done by granting the variance.

(C) That the special conditions and circumstances do not result from the actions of the applicant.

(D) That the granting of the variance will in no other manner adversely affect the health, safety and general welfare of the persons residing or working within the vicinity of the proposed variance, and not diminish or impair established property values within the surrounding areas, and not unreasonably increase the congestion in public streets.

(Ord. 583, passed 4-21-1986; Am. Ord. 05-2009, passed 7-20-2009)

§ 151.094 PROCEDURES.

(A) Procedure. All completed applications for variances filed with the Planning Commission shall be scheduled for hearing and heard, subject to rules adopted by the Planning Commission relating to the timing or completeness of submissions, not later than the second regular meeting to occur after the submission of the application, unless extended upon written request of the applicant. The Planning Commission by motion may at any time request additional information or drawings relating to the proposed variance, and such application shall be deemed to be a "completed application" only after the receipt of such additional information, and for the purpose of receiving such information may delay the consideration of the application to a date not later than the next regular meeting occurring after such request.

(B) Notice of hearing and time for consideration. Notice of the hearing before the Planning Commission shall be published by posting copies thereof in the 5 most public places in the village as determined by Village Council from time to time. The notice shall include the place, time and date of the hearing, the location of the property and the nature of the proposed variance. A sign indicating the type of application as well as the date and time for the hearing shall also be posted on the subject property at least 10 days prior to the hearing date. Additionally, a notice containing the foregoing information shall be sent by first class mail to all property owners listed on the application filed pursuant to § 151.092 hereof, not less than 10 days prior to the date fixed for the hearing. Failure of any such property owner to receive mail notice does not invalidate the granting or denial of the variance. The Planning Commission may continue an on-going hearing from date to date without additional notice.

(C) Public hearing.

(1) The following persons may appear at hearings as parties and be heard in person or by attorney: the applicant; the owner of property that is the subject of the application, if the owner is not the applicant; the owner of property adjacent or contiguous to the property that is the subject of the application or who is the addressee of any notice provided for in division (B) of this section; and any other person who claims a direct, present injury or prejudice to any personal or property right or interest that will occur if the application is approved or denied.

(2) A person authorized to appear and be heard may: present his or her position, arguments and contentions; offer and examine witnesses and present evidence in support of his or her position, arguments, and contentions; cross-examine witnesses purporting to refute his or her position, arguments, and contentions; offer evidence and testimony to refute evidence and testimony offered in opposition to his or her position, arguments, and contentions; proffer any evidence or testimony into the record if such evidence or testimony has not been admitted by the Planning Commission.

(3) Hearings are open to the public, but are not public hearings. Any witness offering testimony or presenting evidence at a hearing shall be placed under oath prior to offering testimony or evidence. All hearings shall be recorded by tape recorder or other electronic means. The Planning Commission, at its option, may have a hearing transcribed by court reporter.

(D) Decisions; issuance of building certificate.

(1) The Planning Commission shall grant or deny the variance not later than the next regular meeting at which the public hearing is completed, after considering the requirements listed in § 151.093. The Planning Commission's final decision shall be in writing, shall be accompanied by a finding of fact and statement of reasons for the decision reached and shall be filed with the Village Clerk-Treasurer, and shall become a part of the public record. A certified copy of the decision of the Planning Commission shall be transmitted by the Village Clerk-Treasurer to all parties to the hearing and all

persons who claimed a right but were not permitted to appear as parties to the hearing, by personal service or by regular United States mail.

(2) In granting such variance, the Planning Commission may impose such conditions as are reasonably necessary to serve the purpose and objectives of the village's zoning and building ordinances, but only with the expressed consent of the applicant. The Clerk-Treasurer shall incorporate the terms and conditions of such decision in any certificate or permit granted to the applicant, whenever a permit or certificate is authorized.

(Ord. 583, passed 4-21-1986; Am. Ord. 03-2007, passed 9-17-2007; Am. Ord. 05-2009, passed 7-20-2009)

§ 151.095 EFFECT ON EXISTING ORDINANCES.

The terms of this subchapter shall supplement and shall not supplant the provisions of existing ordinances regulating zoning and building construction in the village. In particular, the filing of an application for a variance with the Clerk-Treasurer as provided in §§ 151.091 and 151.092 hereof, shall constitute the method of an appeal of an adverse decision by the Building Inspector as provided in § 151.111 of this chapter.

(Ord. 583, passed 4-21-1986)

ADMINISTRATION AND ENFORCEMENT

§ 151.110 APPLICABILITY OF BUILDING PERMITS ALREADY ISSUED.

Nothing herein contained shall require any change in the plans, construction or designated use of buildings for which a building permit has been heretofore issued. Permits will be revoked unless construction shall have been prosecuted and foundation dug within 90 days of the date of such permit and unless such building shall have been completed within one year from date foundation was dug. For good cause shown satisfactory to the Building Inspector such time limits may be extended with right of appeal to Council or Zoning Commission as provided elsewhere herein.

(Ord. 228, passed 6-12-1964)

§ 151.111 PLANNING COMMISSION.

(A) A Planning Commission to administer the details of the application of the regulations, restrictions, and limitations provided by the Zoning Code is hereby created.

(B) The Planning Commission shall consist of five electors of the village appointed by the Mayor by and with the advice and consent of the Village Council, one for three years, two for two years, and two for three years, and the successor each for the term of three years.

(C) The Mayor annually shall appoint one of the members of the Planning Commission as Chair thereof, which person shall serve in such capacity until his or her replacement is appointed and qualifies.

(D) The jurisdiction to administer the Zoning Code, as specified therein and subject to the provisions thereof regarding appeals, is hereby delegated to the Planning Commission. The duties of the Planning Commission are as follows:

(1) Review proposed amendments and rezoning requests to the Zoning Code and make recommendations to Council.

(2) Review and act upon applications for certificates of appropriateness for new construction, exterior modification and/or structural alterations in § 151.068, other applications as provided for in this chapter, and applications for variances from the application of the provisions of the Zoning Code in a particular instance as provided in §§ 151.090 et seq.

(3) Propose amendments to the Zoning Code and make such planning or zoning recommendations to Council as are deemed necessary.

(4) Perform all the actions or duties required of or permitted to a planning commission of a village established pursuant to R.C. § 713.01 as provided for in R.C. Chapter 713, and also any and all the actions or duties required of or permitted to an administrative board established by a village legislative authority established pursuant to R.C. § 713.11.

(5) Perform such other duties as may be required by ordinance or requested by Council.

(6) Hold informal working sessions with owners, occupants, developers, builders and the general public, for the purpose of providing advice and guidance in accordance with the Zoning Code Comprehensive Plan, and prior to the submittal and review of formal development plans.

(7) Perform any action or matter for which any provision of the Zoning Code permits or requires action by a "Planning Commission" or a "Zoning Commission".

(E) Members of the Planning Commission, and the Chair thereof, shall receive such compensation as shall be determined by Village Council from time to time, and shall be entitled to be reimbursed for any necessary expenses incurred in the discharge of their duties.

(F) The Planning Commission shall adopt from time to time such rules and regulations as may be necessary to conduct its business and to carry into effect the provisions of the Zoning Code.

(G) Any person aggrieved by the action of the Planning Commission shall have the right to appeal an adverse action to Village Council, under the same conditions and limitations as are provided in § 151.072 for appeals of matters involving architectural review approvals.

(Ord. 01-2008, passed 3-17-2008)

§ 151.112 ZONING COMMISSION AND BUILDING INSPECTOR DEFINED.

(A) As used in the Zoning Code, whenever the term ZONING COMMISSION is used in the text of the statute, such term shall be interpreted to mean the Planning Commission created under § 151.111, which Planning Commission shall be the successor to the Zoning Commission and the Planning Commission existing under the Municipal Code prior to the effective date of this section.

(B) As used in the Zoning Code, whenever the term BUILDING INSPECTOR is used in the text of the statute, such term shall be interpreted to mean the Chair of the Planning Commission, except that with respect to matters that are, pursuant to applicable Ohio law, within the jurisdiction of the Residential Building Department created under Building Code § 150.100, such term shall have the meaning ascribed thereto by Building Code § 150.100(E).

(Ord. 01-2008, passed 3-17-2008)

§ 151.999 PENALTY.

Any person who violates a provision of this chapter or fails to comply therewith, and any owner upon whose real property the violation occurs, shall severally, for each and every such violation and noncompliance, be guilty of a misdemeanor and upon conviction thereof, be fined not less than \$200 nor more than \$500. Each 24-hour period during which such violation or noncompliance shall continue shall constitute a separate offense. The imposition of a penalty for the violation of this chapter shall not excuse the violation or permit it to continue. The application of the above penalty shall not be held to prevent the enforced removal of any prohibited condition.

(Ord. 228, passed 6-12-1964; Am. Ord. 675, passed 12-21-1992)

Section 3. EFFECTIVE DATE. That this Ordinance shall take effect from and after the earliest date permitted by law.

Section 4. OPEN MEETINGS. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council that resulted in those formal actions were in meetings open to the public in compliance with law.

Section 5. PUBLICATION. That pursuant to Ohio Revised Code Section 731.25, the Council of the Village of Riverlea hereby determines that publication of this Ordinance in a newspaper is unnecessary and does hereby determine that this Ordinance shall be published by posting copies hereof in the five following places which are determined to be the five most public places in the Village of Riverlea, Ohio:

1. The Circle on West Riverglen Drive.
2. The Ravine Park on West Riverglen Drive.
3. The Northwest corner of Beverly Place and Dover Court.
4. Lot 75 on West Riverglen Drive.
5. Lot 7 on West Southington Avenue.

Copies of this Ordinance shall be posted continuously in the above-mentioned places for a period of fifteen (15) days and at the expiration thereof this Ordinance shall become effective.

Passed this ____ day of _____, 2014.

_____, President of Council

ATTEST:

Josh Mehling, Clerk-Treasurer

Kirk McHugh, Mayor

I hereby certify that on the ____ day of _____, 2014, I posted a copy of the above Ordinance in each of the five places heretofore designated by Council as the most public places in the Village of Riverlea and that the same remained there posted continuously for fifteen (15) days.

Josh Mehling, Clerk-Treasurer