

CODIFIED ORDINANCES
OF
MINERVA PARK
OHIO

Local legislation current through December 31, 2002
State legislation current through June 25, 2003
(Includes State legislation effective January 1, 2004)

CODIFIED ORDINANCES OF MINERVA PARK

PART FOURTEEN - BUILDING AND HOUSING CODE

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CODIFIED ORDINANCES OF MINERVA PARK
PART FOURTEEN - BUILDING AND HOUSING CODE

TITLE TWO - Building Standards

Chap. 1420. Ohio Basic Building Code.

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CHAPTER 1420
Ohio Basic Building Code

1420.01 1998 edition adopted.	1420.05 Enforcement.
1420.02 Purpose.	1420.06 File and distribution copies.
1420.03 Application.	1420.07 Conflict of laws.
1420.04 Compliance; violations.	1420.99 Penalty; equitable remedies.

CROSS REFERENCES

See section histories for similar State law
 Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261
 Power to enact further and additional regulations - see Ohio R.C. 3781.01
 Enforcement - see Ohio R.C. 3781.03, 3781.031, 3781.10(E), 3781.102, 3781.19
 Final jurisdiction - see Ohio R.C. 3781.04
 Application - see Ohio R.C. 3781.06, 3781.061, 3781.10(A), 3781.11(A)
 Dead bolt locks in apartment buildings - see Ohio R.C. 3781.103
 Smoke detection system for apartments and condominiums - see Ohio
 R.C. 3781.104
 Use of public buildings by handicapped persons - see Ohio R.C. 3781.111
 Energy conservation - see Ohio R.C. 3781.181
 Submission of plans - see Ohio R.C. 3791.04
 Abandoned service stations - see Ohio R.C. 3791.11 et seq.
 Safety standards for refuse containers - see Ohio R.C. 3791.21

1420.01 1998 EDITION ADOPTED.

Pursuant to Ohio R.C. 731.231, there is hereby adopted, by and for the Village, the Ohio Basic Building Code (OBBC), being particularly the 1998 edition thereof, as adopted by the Ohio Board of Building Standards, Department of Industrial Relations, and as published in Division 4101:2 of the Ohio Administrative Code (OAC), save and except such portions thereof as may be hereinafter amended or deleted.

1420.02 PURPOSE.

The purpose of the OBBC, as adopted in Section 1420.01, is to:

- (a) Provide uniform minimum standards and requirements for the erection, construction, repair, alteration and maintenance of buildings, including construction of industrialized units, such standards relating to the conservation of energy, safety and sanitation of buildings for their intended use and occupancy;
- (b) Formulate such standards and requirements, so far as is practical, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;
- (c) Permit, to the fullest extent feasible, the use of materials and technical methods, devices and improvements, including the use of industrialized units, which tend to reduce the cost of construction and erection without affecting minimum requirements for the health, safety and security of the occupants or users of buildings or industrialized units and without preferential treatment of types or classes of materials or products or methods of construction; and
- (d) Encourage, so far as may be practical, the standardization of construction practices, methods, equipment, material and techniques, including methods employed to produce industrialized units.
(OAC 4101:2-1-05)

1420.03 APPLICATION.

The OBBC applies to all buildings, except as follows:

- (a) Single-family, two-family and three-family dwelling houses which are not constructed of industrialized units, except for the energy conservation provisions required in "Chapter 13, Energy Conservation" of the OBBC (see Ohio R.C. 3781.06, 3781.181 and 3781.182);
- (b) Buildings owned by and used for a function of the United States government;
- (c) Existing buildings where their location, parts, equipment and other items do not constitute a serious hazard, unless otherwise regulated by the provisions of "Chapter 34, Existing Structures" of the OBBC;
- (d) Buildings constructed in accordance with plans which have been approved prior to the effective date of the OBBC;
- (e) Buildings or structures which are incident to the use for agricultural purposes of the land on which said buildings or structures are located, provided such buildings or structures are not used in the business of retail

trade. For the purposes of this section, a building or structure is not considered used in the business of retail trade if fifty percent or more of the gross income received from sales of products in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller (see Ohio R.C. 3781.06 and 3781.061);

- (f) Agricultural labor camps as defined in Ohio R.C. 3733.41;
- (g) Single-family, two-family and three-family detached dwelling houses for which applications have been submitted to the Ohio Director of Human Services pursuant to Ohio R.C. 5104.03 for the purposes of operating type A family day-care homes as defined in Ohio R.C. 5104.01;
- (h) Buildings or structures which are designed, constructed and maintained in accordance with Federal standards and regulations and are used primarily for Federal and State military purposes where the U.S. Secretary of Defense, pursuant to 10 U.S.C. 2233(a)(1), (5) and (6) and 2237, has:
 - (1) Acquired, by purchase, lease or transfer, and constructs, expands, rehabilitates or corrects and equips, such buildings or structures as he or she determines to be necessary to carry out the purposes of Chapter 133 of the U.S.C.;
 - (2) Contributed to the State of Ohio such amounts for the acquisition, construction, expansion, rehabilitation and conversion by the State of Ohio of such additional buildings or structures as he or she determines to be required because of the failure of existing facilities to meet the purposes of Chapter 133 of the U.S.C.; or
 - (3) Contributed to the State of Ohio such amounts for the construction, alteration or rehabilitation of arms storage rooms as he or she determines to be required to meet a change in U.S. Department of Defense standards relating to the safekeeping of arms.(OAC 4101:2-1-09)

1420.04 COMPLIANCE; VIOLATIONS.

(a) No owner or any other person shall construct, erect, build or equip any building or structure to which the OBBC is applicable, or make any addition thereto or alteration thereof, except in the case of repairs or maintenance that does not affect the construction, sanitation, safety or any other vital feature of such building or structure, without complying with this chapter, Ohio R.C. Chapters 3781 and 3791 or the OBBC, or fail to comply with any lawful order issued pursuant thereto.
(ORC 3791.01, 3791.02)

(b) No architect, builder, engineer, plumber, carpenter, mason, contractor, subcontractor, foreman or employee shall violate or assist in violating any of the provisions of this chapter, Ohio R.C. Chapters 3781 and 3791 or the OBBC, or fail to comply with any lawful order issued pursuant thereto. (ORC 3791.01, 3791.03)

(c) No owner or any other person shall proceed with the construction, erection, alteration or equipment of any building or structure to which the OBBC is applicable without complying with this chapter and the plan and specification submission and processing requirements of the Village and/or the OBBC and until plans or drawings, specifications and data have been approved or the industrialized unit has been inspected at the point of origin. (ORC 3791.04)

1420.05 ENFORCEMENT.

(a) When the Village finds that work or equipment is contrary to this chapter, approved plans therefor or the OBBC, notice in writing shall be sent to the owner of the building involved or his or her agent. The notice shall state where and in what respect the work or equipment does not conform to such lawful requirements and shall specify a reasonable period of time in which to conform.

(OAC 4101:2-1-34)

(b) Prior to enforcement of Ohio R.C. Chapters 3781 and 3791, or any rules adopted pursuant thereto, including the OBBC, as adopted in Section 1420.01, by any remedy, civil or criminal, the Village shall issue an adjudication order within the meaning of Ohio R.C. 119.06 to 119.13 or a stop work order as provided in Section 4101:2-1-36 of the OAC.

(c) Every adjudication order shall cite the law or rules directly involved and shall specify what appliances, site preparations, additions or alterations to structures, plans, materials, assemblages or procedures are necessary for the same to comply with Ohio R.C. Chapters 3781 and 3791 and/or any rules adopted pursuant thereto, including the provisions of the OBBC adopted in Section 1420.01.

(d) The order shall include notice to the party of the procedure for appeal and right to a hearing if requested within thirty days of the mailing of the notice. The notice shall also inform the party that at the hearing he or she may be represented by counsel, present his or her arguments or contentions orally or in writing, and present evidence and examine witnesses appearing for or against him or her.

(e) Upon the issuance of any order provided for herein or in Section 4101:2-1-36 of the OAC, the person receiving such order shall cease work upon the site preparations or structure to be constructed, or, in the case of an industrialized unit, the installation of the unit, or shall cease using the appliance, materials, assemblages or manufactured product identified in the order until such time as the appeal provided for in accordance with the provisions of Ohio R.C. 3781.19, and all appeals from such hearing, have been completed, or the order herein has been released. (OAC 4101:2-1-35)

(f) Failure to cease work after receipt of a stop work order as provided in Section 4101:2-1-36 of the OAC is hereby declared to be a public nuisance.

(OAC 4101:2-1-36)

1420.06 FILE AND DISTRIBUTION COPIES.

At least one copy of the OBBC, as adopted in Section 1420.01, is on file with the Clerk-Treasurer for inspection by the public. At least one copy of such Code is also on file in the County Law Library. In addition, the Clerk-Treasurer shall keep copies of such Code available for distribution to the public, at cost.

1420.07 CONFLICT OF LAWS.

(a) Whenever a provision of the OBBC, as adopted in Section 1420.01, conflicts with a provision of the Ohio Fire Code or any other order, standard or rule of the Ohio Department of Commerce, Division of State Fire Marshal, the provision of the OBBC shall control, except that rules adopted and orders issued by the Fire Marshal pursuant to Ohio R.C. Chapter 3743 prevail in the event of a conflict.

(OAC 4101:2-1-04(B); ORC 3781.11(B))

(b) Whenever a provision of the OBBC, as adopted in Section 1420.01, conflicts with a provision of any other standard technical code adopted by the Village, other than as provided in subsection (a) hereof, or any ordinance, resolution, rule or regulation of Council, the stricter standard shall prevail.

(c) When a special provision is made in a use group classification of the OBBC and is inconsistent with a general provision of the OBBC relating to buildings generally, the special provision governs, unless it appears that the provisions are cumulative.

(OAC 4101:2-1-07)

1420.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates or fails to comply with any of the provisions of this chapter, including any provision of the OBBC adopted in Section 1420.01, is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. Unless otherwise provided, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) hereof shall not be deemed to prevent the enforced removal of prohibited conditions, or the application of any other equitable remedy, including abatement of the nuisance referred to in Section 1420.05(f).

CHAPTER 1422
OBOA One, Two and Three-Family Dwelling Code

1422.01 1996 edition adopted; purpose.	1422.05 Conflict of laws.
1422.02 File and distribution copies.	1422.06 Homeowner's exception.
1422.03 Definitions.	1422.07 Workmanship.
1422.04 Enforcement; right of entry.	1422.99 Penalty.

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26(B),
715.261
Adoption of technical codes by reference - see Ohio R.C.
731.231
Ohio Basic Building Code - see Ohio R.C. 3781.10; B. & H.
Ch. 1420

1422.01 1996 EDITION ADOPTED; PURPOSE.

Pursuant to Ohio R.C. 731.231, there is hereby adopted, by and for the Village, the OBOA One, Two and Three-Family Dwelling Code, being particularly the 1996 edition thereof, for the purpose of establishing rules and regulations for the erection, construction, alteration, repair, equipment, use and occupancy of nonindustrialized one, two and three-family dwellings and appurtenant structures, including permits and penalties, which Code is promulgated by the Ohio Building Officials Association and which Code is commonly known and is hereinafter referred to as the OBOA Code, save and except such portions thereof as may be hereinafter amended or deleted. The Code shall be in full force and effect within the Village and shall apply to all nonindustrialized one, two and three-family dwellings in the Village.

1422.02 FILE AND DISTRIBUTION COPIES.

At least one copy of the OBOA Code, as adopted in Section 1422.01, is on file with the Clerk-Treasurer for inspection by the public. At least one copy of such Code is also on file in the County Law Library. In addition, the Clerk-Treasurer shall keep copies of such Code available for distribution to the public, at cost.

1422.03 DEFINITIONS.

As used in this chapter and in the OBOA Code adopted in Section 1422.01:

- (a) "Building Official" means the Building Inspector of the Village.
- (b) "Village" or "Municipality" means the Village of Minerva Park, Ohio.
- (c) "Planning and Zoning Code" means Part Twelve of the Codified Ordinances of the Village.

1422.04 ENFORCEMENT; RIGHT OF ENTRY.

The Building Inspector shall enforce the OBOA Code, as adopted in Section 1422.01, and all other laws relating to buildings and structures and, in the discharge of his or her official duties, shall have authority, upon proper identification, to enter any dwelling, building, structure or premises at any reasonable hour to enforce and ascertain compliance with such Code or with other laws.

1422.05 CONFLICT OF LAWS.

In the event of any conflict between the provisions of the OBOA Code, as adopted in Section 1422.01, and a provision of any other technical code adopted by the Village by reference, or a provision of any Village ordinance, resolution or regulation, that provision that establishes the higher or stricter standard shall prevail.

1422.06 HOMEOWNERS' EXCEPTION.

No provision of this chapter or of the OBOA Code, as adopted in Section 1422.01, shall be interpreted to require that the owner of a single or one-family dwelling shall be licensed or registered or hold a certificate of qualification personally to perform work upon the premises occupied, or to be occupied, by such owner thereof or by such owner's established resident. All such work shall be done by said owner with the assistance only of any member of his or her family or household, and said work shall be done in conformity with the provisions of the OBOA Code and rules or regulations promulgated thereunder, and no work shall be done unless all permits, inspections and approvals required by the OBOA Code are secured.

1422.07 WORKMANSHIP.

(a) In addition to the provisions of the OBOA Code, as adopted in Section 1422.01, and, further, in addition to any amendments or additions to the OBOA Code enacted by the Village, all erection, construction, alteration and repair of one, two and three-family dwellings and appurtenant structures shall be performed in a workmanlike manner including, but not limited to, the following:

- (1) All work shall be in compliance with those performance standards recognized by the applicable trade or industry.
- (2) Walls shall be plumb, floors level and corners square within accepted standards and tolerances within the trade or industry, unless required by design to be otherwise.

(b) The mere fact that a particular erection, construction, alteration or repair is functional shall not give rise to a presumption that it has been performed in a workmanlike manner as discussed in subsection (a) hereof.

1422.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter, including any provision of the OBOA Code adopted in Section 1422.01, is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. Unless otherwise provided, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) hereof shall not be deemed to prevent the enforced removal of prohibited conditions, or the application of any other equitable remedy.

TITLE FOUR - Building Administration
Chap. 1440. Administration Generally.
Chap. 1442. Permits and Fees.
Chap. 1444. Plumbing Inspector.

CHAPTER 1440
Administration Generally

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| 1440.01 Duties of Building Inspector and
Planning and Zoning Clerk. | 1440.03 Notification of readiness for
inspection. |
| 1440.02 Authority of inspectors; right of
entry. | 1440.04 Disclaimer of liability. |
| | 1440.05 Violations. |
| | 1440.99 Penalty. |

CROSS REFERENCES

- Power to regulate building erection - see Ohio R.C. 715.26, 715.29,
737.28, 737.37
Ohio State building standards - see Ohio R.C. Ch. 3781
Required submission of plans of public buildings - see Ohio R.C.
3791.04
Fees for plan approval - see Ohio R.C. 3791.07
Permits and fees - see B. & H. Ch. 1442
Plumbing Inspector - see B. & H. Ch. 1444
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**1440.01 DUTIES OF BUILDING INSPECTOR AND PLANNING AND ZONING
CLERK.**

(a) The Building Inspector shall be charged with the survey and inspection of buildings and structures and with the enforcement of all parts of this Building and Housing Code.

(b) The Building Inspector shall enforce all other laws and ordinances relating to buildings and structures in the Village.

(c) The Planning and Zoning Clerk shall keep a proper record showing the location, value and character of every building, structure or other work for which a certificate or permit is issued and a copy of every report of inspection of a building, structure or work, with the name of the inspector making the inspection and the date thereof.

1440.02 AUTHORITY OF INSPECTORS; RIGHT OF ENTRY.

(a) The Building Inspector and his or her deputies are hereby given the authority to make such tests as may be necessary to determine the condition of any building or structure which it becomes their duty, under the provisions of this Building and Housing Code, to inspect.

(b) The Building Inspector and his or her deputies shall have the power to enter any building or structure within the Village for the purpose of inspecting the same and for the purpose of enforcing the provisions of this chapter. No person shall hinder or prevent the Inspector or his or her deputies from entering any building or structure for such purposes.

(Ord. 46. Passed 10-11-56.)

1440.03 NOTIFICATION OF READINESS FOR INSPECTION.

The owner, superintendent or contractor in charge of any building being erected or altered shall notify the Building Inspector when an excavation is made and the foundation or footing materials are on the premises, giving the location of the work and the number of the permit. No person shall build any wall or place any floor beams on said foundation until the excavation and foundation or footings are approved by the Inspector. Whenever any building has reached the point in construction where the same is ready for lath and plaster or drywall, including the complete installation of all water, steam, gas and furnace stacks and all electric wires and appliances, the owner, superintendent or contractor in charge of erecting or altering such building shall notify the Inspector that the building is ready for a lath inspection.

(Ord. 46. Passed 10-11-56.)

1440.04 DISCLAIMER OF LIABILITY.

(a) Any officer charged with the enforcement of this Building and Housing Code, acting for the Village in the discharge of his or her duties, shall not render himself or herself liable personally, and he or she is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act permitted in the discharge of his or her duties.

(b) Any suit brought against any officer or employee because of any act performed by him or her in the enforcement of any provision of this Building and Housing Code shall be defended by the Director of Law until the final termination of the proceedings. (Ord. 46. Passed 10-11-56.)

1440.05 VIOLATIONS.

No owner of any building or premises shall suffer, permit or allow anything in violation of any of the provisions of this Building and Housing Code to be done or exist, and no architect, builder, contractor or other person who or which may be employed to assist in such work shall violate or fail to comply with any of the provisions thereof, or violate or fail to comply with any order or regulation made thereunder, or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder.

1440.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

CHAPTER 1442
Permits and Fees

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| <p>1442.01 Submittal of plans and specifications to Planning and Zoning Commission.</p> <p>1442.02 Time limits on permits.</p> <p>1442.03 Permits for removal or demolition.</p> <p>1442.04 Certificates of occupancy and compliance.</p> <p>1442.05 Revocation of permits.</p> <p>1442.06 Developments in flood-prone areas.</p> <p>1442.07 Fee for fences and minor work.</p> <p>1442.08 Fee for new construction and major remodeling.</p> | <p>1442.09 Fees for inspections of electrical, plumbing and heating and cooling systems.</p> <p>1442.10 Fee for demolition.</p> <p>1442.11 Fee and deposit for moving of buildings.</p> <p>1442.12 Fee for additional inspections.</p> <p>1442.13 Fees for work requiring reviews or studies by independent civil engineers or architects.</p> <p>1442.14 Payment of fees.</p> <p>1442.99 Penalty.</p> |
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CROSS REFERENCES

- Notice to Mayor or prosecuting attorney of refusal to examine buildings - see Ohio R.C. 737.35
- Inspections; access to buildings - see Ohio R.C. 737.36
- Submittal of permit applications and related documents; issuance; appeals - see P. & Z. 1202.06
- Issuance of building permits - see P. & Z. 1212.02
- Building permits generally - see P. & Z. 1232.01(c)(4), 1232.02(d)(6)

1442.01 SUBMITTAL OF PLANS AND SPECIFICATIONS TO PLANNING AND ZONING COMMISSION.

All plans, complete with specifications, shall be submitted to the Planning and Zoning Commission for approval.

1442.02 TIME LIMITS ON PERMITS.

Nothing contained in this chapter 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 begun and a foundation dug within ninety days of the date of issuance of such permit and unless such building shall have been completed within one year from the date the foundation was dug. For good cause shown, satisfactory to the Building Inspector, such time limits may be extended with a right of appeal to Council or the Planning and Zoning Commission. (Ord. 46. Passed 10-11-56.)

1442.03 PERMITS FOR REMOVAL OR DEMOLITION.

No permit to remove or raze a building or structure shall be granted until notice of the application therefor shall have been given to the owner or owners of lots adjoining the lot upon which said building or structure is located or to which the building or structure is to be moved, and to the owners of wire or other impediments the removal of which will be necessary, nor until an opportunity has been given such owners to be heard before the Planning and Zoning Commission, nor until a bond in the penal sum of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), as fixed by the Mayor, shall have been filed with the Village Clerk-Treasurer to indemnify the Municipality for damage. (Ord. 46. Passed 10-11-56.)

1442.04 CERTIFICATES OF OCCUPANCY AND COMPLIANCE.

No person shall occupy or permit the use of any building or part thereof hereafter erected, altered or changed in use or construction until a certificate of occupancy and compliance has been secured from the Building Inspector stating that the building or premises comply with all the provisions of this Building and Housing Code and all other ordinances of the Village, provided, however, that nothing in this section shall prevent the continuation of any occupancy or use existing at the time of the adoption of this section. (Ord. 46. Passed 10-11-56.)

1442.05 REVOCATION OF PERMITS.

(a) Each and every building permit issued under these Codified Ordinances shall be subject to revocation by the Building Inspector whenever it appears that the building or structure being constructed is, in whole or in part, being constructed in violation of any of the provisions of this Building and Housing Code or of any State statute or is encroaching on Village property.

(b) The revocation of the permit shall be served upon the owner or upon the superintendent or contractor in charge of the work.
(Ord. 46. Passed 10-11-56.)

1442.06 DEVELOPMENTS IN FLOOD-PRONE AREAS.

(a) Permits Required. Permits shall be required for all proposed construction or other development in the Village, including the placement of mobile homes, so that it may be determined whether such construction or development is proposed within a flood-prone area.

(b) Review Procedure. The Chairperson of the Planning and Zoning Commission shall:

- (1) Review all proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, as amended;
- (2) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements, including the placement of prefabricated buildings and mobile homes, shall:
 - A. Be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure;
 - B. Be constructed with materials and utility equipment resistant to flood damage;
 - C. Be constructed by methods and practices that minimize flood damage.
- (3) Review all subdivision proposals and other new development proposals to determine whether such subdivision and development of land will be reasonably safe from flooding. If a proposed subdivision or other new development is in a flood-prone area, the proposal shall be reviewed to assure that:
 - A. All such proposals are consistent with the need to minimize flood damage within the flood-prone area.
 - B. All public utilities and facilities, such as sewerage, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage.
 - C. Adequate drainage is provided to reduce exposure to flood hazards.
- (4) Require, within flood-prone areas, new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and

(5) Require, within flood-prone areas:

- A. New and replacement sanitary sewerage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and
- B. On-site waste disposal systems to be located so as to avoid impairment to them or contamination from them during flooding.

(Ord. 204. Passed 6-13-77.)

1442.07 FEE FOR FENCES AND MINOR WORK.

The fee for a permit to construct a fence, for minor internal or external remodeling, and for minor repairs that do not require an inspection by the Building Inspector, shall be five dollars (\$5.00). (Ord. 5-88. Passed 9-12-88.)

1442.08 FEE FOR NEW CONSTRUCTION AND MAJOR REMODELING.

The fee for a permit to construct a new structure, such as a single or multiple-family dwelling, commercial building or garage, or for major remodeling which will require two or more inspections, shall be one hundred dollars (\$100.00). Major remodeling is considered to be changes that would require adding or moving outside walls, adding or changing floor or ceiling supports and adding or changing electrical, plumbing or heating and cooling systems. In the case of commercial buildings and multiple-family dwellings that consist of more than three units, a permit shall not be issued until the presentation of a valid State building permit.

(Ord. 5-88. Passed 9-12-88.)

1442.09 FEES FOR INSPECTIONS OF ELECTRICAL, PLUMBING AND HEATING AND COOLING SYSTEMS.

The fee for a permit for minor remodeling and repairs that will require inspection of new or replaced electrical wiring or fixtures, plumbing or heating and cooling systems, shall be twenty-five dollars (\$25.00) for each inspection required. The fee for a permit for other special or miscellaneous construction requiring inspections, such as antenna towers or in-ground pools that have plumbing, electrical or heating systems, shall be twenty-five dollars (\$25.00) for each inspection required.

(Ord. 5-88. Passed 9-12-88.)

1442.10 FEE FOR DEMOLITION.

The fee for a demolition permit shall be twenty-five dollars (\$25.00) for each building. (Ord. 5-88. Passed 9-12-88.)

1442.11 FEE AND DEPOSIT FOR MOVING OF BUILDINGS.

The fee for moving a building upon or over the streets of the Village shall be one hundred dollars (\$100.00), plus a one thousand dollar (\$1,000) deposit to cover the cost of repairs or damage or other expense incurred during and as a result of the move. If no damage is evidenced after an inspection by the Village Engineer, the deposit shall be returned. (Ord. 5-88. Passed 9-12-88.)

1442.12 FEE FOR ADDITIONAL INSPECTIONS.

If more than one inspection is required due to faulty construction, an improper address, an inability to gain access to the inspection site, or for any reason that is not the fault of the Building Inspector, the Inspector may charge twenty-five dollars (\$25.00) for each additional inspection. (Ord. 5-88. Passed 9-12-88.)

1442.13 FEES FOR WORK REQUIRING REVIEWS OR STUDIES BY INDEPENDENT CIVIL ENGINEERS OR ARCHITECTS.

Permits for work to be done that would require reviews or studies by independent civil engineers or architects shall be two hundred dollars (\$200.00), plus the fee charged by the engineers or architects. These fees shall be determined by the Planning and Zoning Commission after an initial request for the permit has been received.

(Ord. 5-88. Passed 9-12-88.)

1442.14 PAYMENT OF FEES.

Fees shall be paid to the Clerk-Treasurer at the time the approved permit is issued. (Ord. 5-88. Passed 9-12-88.)

1442.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

CHAPTER 1444
Plumbing Inspector

1444.01 Appointment; certification.

CROSS REFERENCES

Power to license plumbers - see Ohio R.C. 715.27

Regulations to control house sewers and connections
to sewerage system - see Ohio R.C. 729.51

Fees for inspections of plumbing systems - see
B. & H. 1442.09

1444.01 APPOINTMENT; CERTIFICATION.

The Franklin County Plumbing Inspector shall be certified as the Village Plumbing Inspector, pursuant to appointment by the Mayor.

(Ord. 3-88. Passed 4-11-88.)

TITLE SIX - Miscellaneous Building Regulations

- Chap. 1460. Abandoned Automobile Service and Filling Stations.
 Chap. 1464. Fences and Walls.
 Chap. 1466. General Building Regulations.
 Chap. 1476. Swimming Pools.
 Chap. 1477. Uses of Rights of Way.
 Chap. 1478. Wireless Telecommunications Facilities.

CHAPTER 1460

Abandoned Automobile Service and Filling Stations

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| <p>1460.01 Abandoned automobile service or filling station defined.</p> <p>1460.02 Presumption of nuisance; abatement.</p> <p>1460.03 Notice to abate; adaptation for new use; razing; exceptions; extensions.</p> | <p>1460.04 Noncompliance; authority of Mayor.</p> <p>1460.05 Maintenance of inoperative, but not abandoned, stations.</p> <p>1460.99 Penalty.</p> |
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CROSS REFERENCES

- Abandoned gas stations - see Ohio R.C. 3791.11
 et seq.
 Fire Prevention Code - see F.P. Ch. 1610

1460.01 ABANDONED AUTOMOBILE SERVICE OR FILLING STATION DEFINED.

For the purposes of this chapter, "abandoned automobile service and filling station" means any automobile service and filling station in which the owner or lessee has failed to operate for at least six months in any twelve-month period.

(Ord. 171. Passed 4-8-74.)

1460.02 PRESUMPTION OF NUISANCE; ABATEMENT.

All automobile service and filling stations which, on the effective date of this chapter or at any time thereafter, are abandoned for use as such shall be presumed to be a nuisance affecting or endangering surrounding property values and to be detrimental to the public health, safety, convenience, comfort, property or general welfare of the community and shall be abated.

(Ord. 171. Passed 4-8-74.)

1460.03 NOTICE TO ABATE; ADAPTATION FOR NEW USE; RAZING; EXCEPTIONS; EXTENSIONS.

(a) Whenever it is found that any automobile service and filling station has been abandoned, the Mayor, as Village Administrator, shall give notice to the owner of record in the same manner as service of a summons in civil cases, by certified mail addressed to the owner of record at his or her last known address or to the address to which tax bills are sent, or by a combination of the foregoing methods, to abate such abandoned condition within sixty days by placing the station in operation in accordance with law, by adapting or using the building for another permitted business use or by razing the service and filling station structure.

Adaptation or razing shall include:

- (1) Removing the pumps and signs;
- (2) Abandoning the underground storage tanks in accordance with accepted safety practices prescribed by the National Fire Protection Association in Appendix C to N.F.P.A. No. 30, under the supervision of the Fire Department of the City of Columbus or designated Village personnel;
- (3) Removing the pump islands and all electrical wires attendant thereto; and
- (4) Filling all depressions to the grade level of the lot.

(b) The provisions of subsection (a) hereof shall not apply if:

- (1) The automobile service and filling station is in operation at the time a notice is given and remains in operation for ninety days thereafter.
- (2) A national emergency is declared which would, for the duration of a certain specified period, curtail the operation of motor vehicles.
- (3) Council determines that a state of general economic depression exists, except that in such a case, paragraph (a)(2) hereof shall still be complied with.

- (4) Street widening, sewer installation or other public improvement requires the closure of the automobile service and filling station during the period of construction of said improvements.

(c) For good cause shown, an extension for a reasonable period, not to exceed ninety days per extension, may be granted by the Mayor.
(Ord. 171. Passed 4-8-74.)

1460.04 NONCOMPLIANCE; AUTHORITY OF MAYOR.

Upon the failure, refusal or neglect of an owner of any abandoned automobile service and filling station to comply with a notice to abate such abandonment, given in accordance with Section 1460.03, the Mayor shall take such action as may be necessary to abate such nuisance. The reasonable cost of abating such nuisance shall be reported to Council which may assess such cost on the real estate on which the abandoned automobile service and filling station is located. Such remedy shall be in addition to the penalty provided in Section 1460.99.
(Ord. 171. Passed 4-8-74.)

1460.05 MAINTENANCE OF INOPERATIVE, BUT NOT ABANDONED, STATIONS.

Inoperative automobile service and filling stations which do not come within the definition of abandoned automobile service and filling stations shall be maintained in accordance with the following:

- (a) The exterior of all windows shall be covered with one-half inch plywood, painted, and so fastened as to ensure against vandalism, wind damage and other incidents of destruction.
- (b) All utilities shall be disconnected or turned off.
- (c) The parking of motor vehicles shall be prohibited on the property and the owner shall place on the window area of the automobile service and filling station a sign, with a minimum area of ten square feet, prohibiting parking or trespassing. (Ord. 171. Passed 4-8-74.)

1460.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

CHAPTER 1464
Fences and Walls

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| 1464.01 Location and height. | 1464.03 Design and materials. |
| 1464.02 Construction outside of lot lines;
posts and support structures. | 1464.99 Penalty. |

CROSS REFERENCES

- Power to regulate fences - see Ohio R.C. 715.27
 Fences generally - see Ohio R.C. Ch. 971
 Landscaping buffers between certain land uses - see
 P. & Z. 1278.03 et seq.
 Basement walls and floor drains - see B. & H. 1466.04
 Protective barriers around swimming pools - see B. & H.
 1476.05

1464.01 LOCATION AND HEIGHT.

No fence or wall of any kind or for any purpose shall be erected beyond the rear building line of a dwelling structure on any lot, part of a lot or combination of lots, and no fence or wall shall be higher than seventy-two inches, from its base to the top of construction, for wood-combination fences, or forty-eight inches, from its base to the top of construction, for chain-link type fences. (Ord. 3-93. Passed 10-11-93.)

1464.02 CONSTRUCTION OUTSIDE OF LOT LINES; POSTS AND SUPPORT STRUCTURES.

No portion of a fence or wall shall be constructed outside of a dwelling lot line, and all posts and support structures shall be on the inside of that side of the premises that faces the installer's dwelling. (Ord. 3-93. Passed 10-11-93.)

1464.03 DESIGN AND MATERIALS.

The design of any fence or wall and the material used for the construction of the same shall be approved by the Planning and Zoning Commission. Wood fence structures may include, but not be limited to, picket fences, hurdle fences, post and rail fences, split fences and woven wood fences. Descriptions of the same are on file with the Planning and Zoning Commission. (Ord. 3-93. Passed 10-11-93.)

1464.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

CHAPTER 1466
General Building Regulations

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|---|---|
| 1466.01 Grades. | 1466.06 Roof gutters. |
| 1466.02 Curbs. | 1466.07 Covering for exterior walls. |
| 1466.03 Gravel spread on driveways. | 1466.08 Sanitation at construction sites. |
| 1466.04 Basement walls and floor drains. | 1466.99 Penalty. |
| 1466.05 Discharge of storm waters into
sanitary sewerage system; drainage. | |

CROSS REFERENCES

Power to regulate building erection - see Ohio R.C. 715.26,
715.29, 737.28, 737.37

Ohio Basic Building Code - see Ohio R.C. 3781.10; B. & H.
Ch. 1420

Operation and transportation of machinery and materials -
see GEN. OFF. 648.10

Construction in subdivisions - see P. & Z. 1218.01 et seq.

OBOA One, Two and Three-Family Dwelling Code - see B. & H.
Ch. 1422

1466.01 GRADES.

No grade shall be higher or lower than the natural drainage grade and all grades must conform to the grade of one's neighbors or of adjoining lots, as designated by the Building Inspector. (Ord. 46. Passed 10-11-56.)

1466.02 CURBS.

All curbs shall be cut and cemented prior to building and shall be subject to the Building Inspector's approval. (Ord. 46. Passed 10-11-56.)

1466.03 GRAVEL SPREAD ON DRIVEWAYS.

All driveways shall have gravel spread before the hauling of construction materials begins. The gravel shall start at the cement where the curb has been cut. (Ord. 46. Passed 10-11-56.)

1466.04 BASEMENT WALLS AND FLOOR DRAINS.

All basement walls shall be coated with an approved waterproofing material on the outside and all basement floor drains shall be tiled.

(Ord. 46. Passed 10-11-56.)

1466.05 DISCHARGE OF STORM WATERS INTO SANITARY SEWERAGE SYSTEM; DRAINAGE.

(a) No person shall discharge, or cause or permit to be discharged, either directly or indirectly, by any means, any storm water, roof water, surface or subsurface drainage water, including water from building foundation drains or subsoil drains, cooling water or unpolluted industrial process water, into the sanitary sewerage system of the Village. Existing connections of subsoil drains to house sewers, heretofore lawfully made, may be retained, notwithstanding the provisions of the preceding sentence.

(b) No foundation or subsoil shall be installed in such a manner as to permit the drainage therefrom to overflow onto the basement floor.

(c) Each building basement shall be equipped with a sump and a sump pump capable of discharging any subsurface drainage that might otherwise enter the sanitary sewerage system. The sump pump shall be provided with a discharge line leading to the street gutter, a storm sewer or a drainage ditch. If no such outlet is available, the discharge line shall be led to such part of the premises as, in the opinion of the Building Inspector, is best suited for dissipating said water with the least possibility of damage to property or persons.

(d) The Building Inspector shall have the authority to make regulations relative to the design, construction, size, type of material and method of installation of sumps, sump pumps and discharge lines for the purpose of assuring the satisfactory functioning thereof. Any person aggrieved by a decision of the Inspector in this regard shall have the right to appeal to Council.
(Ord. 116. Passed 5-9-66.)

1466.06 ROOF GUTTERS.

All roof gutters shall be tiled to the street upon which the house is facing.

(Ord. 46. Passed 10-11-56.)

1466.07 COVERING FOR EXTERIOR WALLS.

All exterior walls of cement or cinder block construction in all structures shall be covered with a minimum of one-half inch cement stucco.

(Ord. 46. Passed 10-11-56; Ord. 60. Passed 2-13-58.)

1466.08 SANITATION AT CONSTRUCTION SITES.

(a) It shall be the duty of the owner of any lot and the duty of any building contractor doing construction work on any lot to store any and all building supplies, materials and equipment on the lot on which work is being done, at least ten feet from the curb line.

(b) It shall be the duty of the owner of each lot on which construction work is being performed and the duty of each contractor performing or supervising construction work on any lot in the Village, at the end of each work day, to clean and remove all dirt and debris from the streets.

(c) If an owner or contractor fails to comply with subsection (a) or (b) hereof, the Mayor of the Village is authorized to employ such person or persons as are necessary to carry into effect the provisions of such subsections and such person or persons shall be paid from moneys deposited by the owner or contractor. Such remedy shall be in addition to the penalty provided in Section 1466.99.

(d) If an owner or contractor complies with subsections (a) and (b) hereof, the Building Inspector shall certify such fact upon final inspection of the building, and any funds remaining by reason of any deposit required by law shall be refunded to the person making said deposit. (Ord. 46. Passed 10-11-56.)

1466.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

CHAPTER 1476
Swimming Pools

1476.01 Swimming pool defined.	1476.06 Lights.
1476.02 Application of chapter.	1476.07 Drainage.
1476.03 Construction; permit required; fee; deposit.	1476.08 Filtration system.
1476.04 Location, area and height.	1476.09 Violations.
1476.05 Protective barriers.	1476.99 Penalty.

CROSS REFERENCES

Fences generally - see Ohio R.C. Ch. 971
 Water - see S.U. & P.S. Ch. 1040
 Sewers - see S.U. & P.S. Ch. 1042; B. & H. 1466.05
 Permits and fees generally - see B. & H. Ch. 1442
 Plumbing Inspector - see B. & H. Ch. 1444

1476.01 SWIMMING POOL DEFINED.

For purposes of this chapter, "swimming pool" means a body of water of artificial construction used for swimming or recreational bathing, which is over twenty-four inches in depth at any point or has more than 150 square feet of area on the water surface when filled to capacity, together with the sides and bottom of such pool and the equipment and appurtenances thereof.
 (Ord. 73. Passed 10-10-60.)

1476.02 APPLICATION OF CHAPTER.

All of the provisions of this chapter shall apply to private or noncommercial swimming pools. The provisions of Sections 1476.03 and 1476.05 through 1476.08 shall apply to all swimming pools.
 (Ord. 73. Passed 10-10-60.)

1476.03 CONSTRUCTION; PERMIT REQUIRED; FEE; DEPOSIT.

(a) No person shall locate, construct or install a swimming pool, or make any changes thereto or in the appurtenances thereof, without having first submitted an application, plans and specifications therefor to, and having obtained a permit from, the Building Inspector.

(b) The fee for the permit, to be collected by the Building Inspector, shall be fifteen dollars (\$15.00). No fee shall be required if the pool is built during the construction of the house. No permit shall be issued unless and until the plans and specifications have been approved by the Building Inspector as to the structural safety of the pool and compliance of the pool with this chapter, and unless and until the contractor has deposited a sum of twenty-five dollars (\$25.00) with the Building Inspector. The deposit, less any fines levied, shall be returned when the Building Inspector certifies that the contractor has complied with the provisions of this chapter and with all other provisions of this Building and Housing Code. The pool shall not be used until the construction thereof has been approved by the Building Inspector.

(Ord. 73. Passed 10-10-60.)

1476.04 LOCATION, AREA AND HEIGHT.

(a) No swimming pool or any part thereof, exclusive of sidewalks, shall be located nearer than five feet to the side or rear line of the lot or parcel upon which it is situated or nearer to any street on which such lot or parcel abuts than a distance ten feet greater than the building setback line, as fixed by the Zoning Code. If a parcel consists of two lots and the house or garage is built across the common lot line, the five-foot distance rule applies to the boundaries of the parcel. If the house or garage does not cross the common lot line, then the five-foot distance rule applies, unless the pool extends across the common lot line at least three feet. The area of the pool proper, exclusive of decks, walks and other appurtenances, shall not exceed ten percent of the area of the lot or parcel on which it is situated.

(b) The top of the walls, decks or walks of any swimming pool shall not project more than two feet above the average finished grade of the pool site or portion of the lot immediately surrounding the pool, the boundaries of which portion extend twenty feet beyond the pool proper in each direction, except that where any side of the pool is less than twenty feet from any lot line, the difference between such distance and twenty feet shall be added to the required distance of said portion beyond the opposite side thereof. In the event that the foregoing formula cannot be applied with reasonable results, because of the shape of the pool, the Building Inspector shall be authorized to fix the location of the pool site to be used in determining the maximum grade of the pool, in keeping with the results sought to be achieved by said formula. In the event of dissatisfaction by any interested party with the determination of the Building Inspector, an appeal may be taken to the Planning and Zoning Commission.

(c) No lights, diving boards or other accessories shall project more than ten feet above the average grade of the pool site, as determined under the provisions of this chapter.
(Ord. 73. Passed 10-10-60.)

1476.05 PROTECTIVE BARRIERS.

(a) Every swimming pool (including existing pools) shall have a protective barrier such as a screened enclosure, a plastic dome or a fence of sturdy construction. The fence shall not be less than forty-two inches in height, measured from the level of the ground where it is located, and shall be of such design and construction as to effectually 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 depth of water in the pool exceeds eighteen inches, unless the pool is in use or is under the immediate observation of a responsible person. No part of any fence shall be located between the building setback line fixed by the Zoning Code and the street on which the lot or parcel abuts.

(b) The Planning and Zoning Commission shall have the power to make exceptions to and modifications of the requirements set forth in subsection (a) hereof for enclosures of existing pools in cases in which, in the Commission's opinion, such requirements are not essential to safety and the enforcement thereof would work a hardship on the owner.
(Ord. 73. Passed 10-10-60.)

1476.06 LIGHTS.

All lights used for illuminating any swimming pool or the surrounding areas shall be designed, located and installed so as to confine the direct beams thereof to the lot or parcel on which the pool is located and so as not to constitute a nuisance or undue annoyance to occupants of abutting properties.
(Ord. 73. Passed 10-10-60.)

1476.07 DRAINAGE.

Provision shall be made for the drainage of a swimming pool into a public storm sewer where possible, unless there is a ditch or natural watercourse of sufficient size and gradient adjacent to the pool to carry off the water satisfactorily, in which case drainage may be made into such ditch or watercourse.
(Ord. 73. Passed 10-10-60.)

1476.08 FILTRATION SYSTEM.

Every swimming pool, including existing pools, shall be provided with a filtration system approved by the County Board of Health.
(Ord. 73. Passed 10-10-60.)

1476.09 VIOLATIONS.

No person shall use, operate, repair or maintain any swimming pool in violation of any of the provisions of this chapter, any lawful order of the Building Inspector or any regulation of the County Board of Health or any order of the Health Commissioner issued pursuant thereto.
(Ord. 73. Passed 10-10-60.)

1476.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

CHAPTER 1477
Uses of Rights of Way

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|---|---|
| 1477.01 Purpose; scope. | 1477.11 Indemnification and insurance. |
| 1477.02 Definitions. | 1477.12 Removal of facilities. |
| 1477.03 Types of permits and franchises. | 1477.13 Revocation. |
| 1477.04 Permit application. | 1477.14 Reservation of rights by Village. |
| 1477.05 Criteria for granting permits. | 1477.15 Temporary removal of facilities. |
| 1477.06 Terms of permits. | 1477.16 Permit non-transferable; exception. |
| 1477.07 Obligations of permittees. | 1477.17 Separability. |
| 1477.08 Permit fees. | 1477.99 Penalty; equitable remedies. |
| 1477.09 Construction and technical standards. | |
| 1477.10 Use of facilities by Village. | |

CROSS REFERENCES

- "Property" defined to include cable television service - see GEN. OFF. 606.01(o)
- "Services" defined to include cable television service - 642.01(a), (r)
- Cable television - see B.R. & T. Ch. 808
- Water - see S.U. & P.S. Ch. 1040
- Sewers - see S.U. & P.S. Ch. 1042
- Gas - see S.U. & P.S. Ch. 1044
- Electricity - see S.U. & P.S. Ch. 1046

1477.01 PURPOSE; SCOPE.

(a) The purpose of this chapter is to provide requirements for the use or occupation of any and all rights of way in the Village, the issuance of permits to persons for such use or occupancy, and to set forth the policies of the Village relating thereto.

(b) This chapter does not take the place of any franchise, license or permit which may be additionally required by law. Each permittee shall obtain any and all such additional franchises, licenses or permits necessary to the operation and conduct of its business.

(c) No person shall use, occupy, own or operate facilities in, under or over any rights of way within the Village unless such person first obtains a franchise and/or permit conforming to the requirements set forth therein and in this chapter.

(d) The policy of the Village with regard to rights of way is hereby declared to be:

- (1) To promote public safety and protect public property;
- (2) To promote the utilization of rights of way for the public health, safety and welfare and to promote economic development in the Village;
- (3) To promote the availability of a wide range of utility, communication and other services, including the rapid deployment of new technologies and innovative services, to the Village's citizens and taxpayers at reasonable rates;
- (4) To promote cooperation among the Village and the franchisees and permittees in the occupation of rights of way, and work therein, in order to minimize public inconvenience during work in the rights of way and avoid uneconomic, unneeded and unsightly duplication of facilities;
- (5) To ensure adequate public compensation for the regulation of the private use of the rights of way and regulation thereof; and
- (6) To promote and require reasonable accommodation of all uses of the rights of way and to establish the following priority of use of the rights of way, when all requested usage of the rights of way by permittees cannot be accommodated:
 - A. Use by the Village shall have first priority;
 - B. Use by another governmental entity with the Village's concurrence or other uses required by law, and utility permittees and franchisees shall have second priority;
 - C. Telecommunications permittees and franchisees shall have third priority;
 - D. Special permittees shall have fourth priority; and
 - E. Residential permittees shall have the fifth priority;

Provided, however, that the Mayor may reasonably require right of way permittees and franchisees to cooperate to accommodate use by other permittees and franchisees, and provided, further, that the Mayor may alter these priorities when the Mayor reasonably determines a deviation therefrom to be in the public interest.

(e) Nothing in this chapter should be construed to apply the provisions of this chapter to facilities owned or operated by the Village or any of its operations.

(f) Unless otherwise specifically stated in a permit, all permits granted hereunder shall be non-exclusive.

(g) This chapter shall have no effect on any existing permit until the expiration of same. (Ord. 6-97. Passed 7-14-97.)

1477.02 DEFINITIONS.

For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this chapter. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Applicant" means any person applying for a permit hereunder.
- (b) "Approved" means approval by the Village pursuant to this chapter or any regulations adopted hereunder.
- (c) "Best Efforts" means the best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, safety, expedition, available technology and human resources and cost.
- (d) "Cable Television Service" means the one-way transmission to subscribers of video programming or any other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or any other programming service.
- (e) "Council" means the Council of the Village of Minerva Park.
- (f) "Emergency" means a reasonably unforeseen occurrence with the potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.
- (g) "Force Majeure" means a strike, acts of God, acts of public enemies, orders of any kind of the government of the United States of America or the State of Ohio or any of its departments, agencies or political subdivisions, riots, epidemics, landslides, lightning, earthquakes, fires, tornadoes, storms, floods, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of the disabled party, but only to the extent that the disabled party notifies the other party as soon as practicable regarding such force majeure, and then for only so long as and to the extent that the force majeure prevents compliance or causes non-compliance with the provisions hereof.
- (h) "Mayor" means the Director of Public Services (or the equivalent).
- (i) "Permit" means the non-exclusive grant of authority to use or occupy all or a portion of the Village's rights of way granted pursuant to this chapter.
- (j) "Permittee" means any person issued a permit pursuant to this chapter to use or occupy all or a portion of the rights of way in accordance with the provisions of this chapter and said permit.
- (k) "Person" means any natural person or any association, firm, partnership, joint venture, corporation or other legally recognized entity, whether for profit or not-for-profit.
- (l) "Regulation" means any rule adopted by and pursuant to the authority of this chapter.

- (m) "Residential Related Purposes" means residential use of a right of way for mailboxes, decorative purposes, curb cuts, driveways, irrigation systems and other uses permitted in the right of way by ordinance.
- (n) "Right of Way" or "Rights of Way" means the surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement or right of way now or hereafter held by the Village which shall, within its proper use, entitle a permittee, in accordance with the terms hereof and any permit, to the use thereof for the purpose of installing or operating any facilities as may be ordinarily necessary and pertinent to the provision of utility, cable television, communications or other services as set forth in any permit. "Right of way" shall also include publicly owned property, but only to the extent that the use or occupation thereof is specifically granted in a permit or by regulation.
- (o) "Right of Way Work Permit" means a permit granted by the Director, authorizing actual physical work by a permittee in the right of way.
- (p) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- (q) "Force Majeure" means a strike, acts of God, acts of public enemies, orders of any kind of the government of the United States of America or the State of Ohio or any of its departments, agencies or political subdivisions, riots, epidemics, landslides, lightning, earthquakes, fires, tornadoes, storms, floods, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of the disabled party, but only to the extent that the disabled party notifies the other party as soon as practicable regarding such force majeure, and then for only so long as and to the extent that the force majeure prevents compliance or causes non-compliance with the provisions hereof.
(Ord. 6-97. Passed 7-14-97.)

1477.03 TYPES OF PERMITS AND FRANCHISES.

- (a) The following types of permits and franchises are available for the use of rights of way:
 - (1) Cable television franchise. A cable television franchise shall be granted to providers of cable television service.
The specific terms and conditions of a cable television franchise shall be contained within such franchise. This chapter shall be applicable to such franchises to the extent specified within the franchise.
 - (2) Telecommunications or utility permit. A telecommunications or utility permit shall be granted to persons who desire and are granted authority to utilize rights of way to provide a public utility and/or telecommunications service, other than cable television service.

- (3) Special permit. A special permit shall be granted to persons for a specific, limited use of the rights of way or a specific portion thereof; and
- (4) Residential permit. A residential permit shall be granted to an adjacent or proximate residential landowner to occupy or use a portion of the right of way for residential-related purposes.

(b) All permits shall specify the use or uses for which such permits are granted and shall contain such other nondiscriminatory terms and conditions as are appropriate and as are set forth in this chapter or conditions negotiated and agreed to by the Village and the permittee to provide for the public safety or welfare.

(Ord. 6-97. Passed 7-14-97.)

1477.04 PERMIT APPLICATION.

(a) Applications for cable television franchises shall be processed and granted or denied pursuant to Chapter 808 of the Business Regulation and Taxation Code, provided, however, that a cable franchise shall only entitle the franchisee to utilize the rights of way for purposes directly relating to the provision of the cable television service. Any other right of way use by such franchisee shall require a separate permit, unless specifically contained in an existing franchise agreement.

(b) Applicants for telecommunications or utility permits shall file an application therefor, in such form as the Village may require, along with an application fee as established from time to time by Council. The Mayor shall determine if the application is in order and, if so, forward the application to Council to determine whether, in accordance with the criteria set forth in Section 1477.05, the applicant should be granted a permit hereunder. Within 120 days after receiving a complete application, Council shall make a final determination as to whether or not such permit should be granted and, if so, upon what terms and conditions.

(c) Applicants for special permits shall file an application therefor, in such form as the Village requires, along with an application fee as established from time to time by Council. The Director shall determine if the application is in order and if the Mayor also finds, in accordance with the criteria set forth in Section 1477.05, that the application should be granted, the Mayor shall grant such a permit.

(d) Applicants for residential permits shall file an application therefor, in such form as the Village requires, along with an application fee as established from time to time by Council. The Mayor shall determine if the application is in order and, if so, shall grant the application so long as the Mayor also finds, in accordance with the criteria set forth in Section 1477.05, that the application should be granted. Residential permits shall be valid until canceled by the Mayor upon sixty days written notice to the permittee, provided, however, that upon a finding by the Mayor that an emergency exists, the Mayor may cancel such permit upon such lesser notice as is necessary under the circumstances.

(e) Any applicant may appeal the failure of the Mayor to grant a permit or to recommend it to be granted upon terms and conditions acceptable to the applicant. In order to perfect such appeal, the applicant shall file, within ten days of the Mayor's determination or recommendation, or within ninety days of the filing of the application if the Mayor has taken no action, no appeal to Council. Council shall then review the matter after affording the applicant an opportunity to be heard, either in person or in writing. Except to the extent otherwise appealable by law, Council's decision shall be final.

(f) A permittee that desires to renew its permit under this chapter shall, not more than 180 days nor less than ninety days before expiration of the current permit, file an application with the Village for renewal of its permit, which shall include the information required in the original application. Within ninety days after receiving a complete application under this section, the Village shall issue a written determination granting or denying the renewal application, in whole or in part, applying the criteria set forth in Section 1477.05. If the renewal application is denied, the written determination shall include the reasons for non-renewal. No permit shall be renewed until any ongoing violations or defaults in the permittee's performance of the permit, or of the requirements of this chapter, have been cured, or a plan detailing the corrective action to be taken by the permittee has been approved by the Village.

(Ord. 6-97. Passed 7-14-97.)

1477.05 CRITERIA FOR GRANTING PERMITS.

(a) Cable television franchises shall be granted pursuant to Chapter 808 of the Business Regulation and Taxation Code.

(b) Telecommunications, utility and special permits shall be granted, or renewed, to persons based upon a determination by the Village that the following criteria are met:

- (1) That the granting or renewal of the permit will contribute to the public health, safety or welfare in the Village;
- (2) That the granting or renewal of the permit will be consistent with the policy of the Village as set forth in Section 1477.01;
- (3) That the applicant has and will continue to have liability insurance which names the Village as an additional insured, in effect in such amounts and for such liability as the Village may require, or will be self-insured pursuant to the terms of this chapter;
- (4) That the applicant is a proper person to hold a permit and will fulfill all of its obligations hereunder;
- (5) That the applicant possesses sufficient financial and technical ability;
- (6) That the application complies with applicable Federal, State and local telecommunications laws, rules and policies; and

(7) For permit renewals, that the rights of way possess a continuing capacity to accommodate the applicant's existing facilities; the applicant's compliance with the requirements of this chapter and the permit provisions; and such other factors as may demonstrate that the continued grant to use the rights of way will serve the community interest.

(c) Residential permits shall be granted if not inconsistent with the public health, safety and welfare. (Ord. 6-97. Passed 7-14-97.)

1477.06 TERMS OF PERMITS.

(a) Telecommunications and utility permits shall be granted for a term not to exceed ten years.

(b) The terms of special permits shall be determined by the Mayor, but shall in no event exceed ten years.

(c) Residential permits shall be granted for an indefinite period, but shall be cancelable by the Village upon sixty days written notice.
(Ord. 6-97. Passed 7-14-97.)

1477.07 OBLIGATIONS OF PERMITTEES.

(a) In addition to the other requirements set forth herein, each telecommunications and/or utility and special permittee shall:

- (1) Use its best efforts to cooperate with other franchisees and permittees and the Village for the best, most efficient, most aesthetic and least obtrusive use of the rights of way, consistent with public safety, and to minimize traffic and other disruptions, including street cuts.
- (2) Participate in joint planning and advance notification of right of way work, except such work performed in emergencies or other exigent circumstances.
- (3) Cooperate with other nonresidential permittees and franchisees in the utilization of, construction in, and occupancy of, private rights of way, but only to the extent that the same is not inconsistent with the grant thereof or State or Federal law.
- (4) Upon written notice by, and at the direction of, the Director, and at the permittees sole cost, promptly remove or rearrange facilities as necessary, e.g. during any construction, repair or modification of any street, sidewalk, Village utility or other governmental use, or if additional or subsequent Village or other public uses of the rights of way are inconsistent with then current uses of franchisees and permittees or for any other reasonable cause as determined by the Mayor.

- (5) Provide maps or other information in such form (including digital form) and at such times as the Village may reasonably require. Said maps and information shall locate, describe and identify all structures and facilities of such permittee, including pole attachments, above and in the rights of way.
- (6) Perform all work, construction, maintenance or removal of structures and facilities within the rights of way in accordance with good engineering and construction practices, including any appropriate safety codes, and in accordance with the best efforts to repair and replace any street, curb or other portion of the right of way, or facilities or structures located therein, to a condition materially equivalent to this condition prior to such work, and to do so in a manner which minimizes inconvenience to the public, the Village and other franchisees and permittees, all in accordance with all applicable regulations.
- (7) Register with all appropriate underground reporting services.
- (8) Unless otherwise set forth in a permit, not enter into leases or other agreements for physical space, in or on the permittee's facilities located within the rights of way, without prior notice to the Mayor, to include a general description of the uses to be made of the rights of way.
- (9) Designate a single point of contact for all activities relating to the permit in the Village.
- (10) Ensure subcontractor compliance with all permit provisions.
(Ord. 6-97. Passed 7-14-97.)

1477.08 PERMIT FEES.

Permit fees shall be as established from time to time by Council.

(Ord. 6-97. Passed 7-14-97.)

1477.09 CONSTRUCTION AND TECHNICAL STANDARDS.

(a) Upon the granting of a permit and in order to construct, operate and maintain a telecommunications system or utility in the Village, the permittee may enter into contracts with any public utility company or any other owner or lessee of any poles or underground facilities located within or without the Village; obtain right of way permits from appropriate Village, State, County and Federal officials necessary to cross or otherwise use highways or roads under their respective jurisdiction; obtain permission from the Federal Aviation Administration to erect and maintain antennas; and obtain whatever other permits a Village, County, State or Federal agency may require.

(b) In those areas of the Village where telephone and electric services are provided by underground facilities, all new facilities of a permittee shall be placed underground. In all other areas, the permittee, upon request by the Village, shall use its best efforts to place facilities underground. However, the term "facilities", as used in the preceding sentence, shall not include equipment which is customarily placed on or above the ground in conjunction with underground transmission facilities (e.g. splice

and terminal pedestals, equipment cabinets and transformers). Where not otherwise required to be placed underground by this chapter, the permittee's system shall be located underground at the request of the adjacent property owner, provided the placement of such system shall be consistent with the permittee's construction and operating standards, and provided, further, that the excess cost over the aerial location shall be borne by the property owner making the request. All cable to be installed under the roadway shall be installed in conduit. Under no circumstance shall a new pole be located in any area of the Village, where it is not replacing an existing pole, without written approval of the Director, which approval shall not be unreasonably withheld.

(c) A permittee shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements and FCC technical standards, which standards are incorporated herein by reference.

(d) The permittee shall comply with the Village's normal permitting process prior to commencing any work in the rights of way, except for emergencies and as otherwise provided in this chapter. No work in the rights of way shall be commenced until such time as any and all required permits have been issued by the Village. The Village shall not unreasonably withhold the granting of any permit.

(e) Any contractor proposed for performing the work of construction, installation, operation, maintenance and repair of system equipment must be properly licensed under the laws of the State and all local ordinances. The contractor's or permittee's system and associated equipment erected by the permittee within the Village shall be so located as to cause minimal interference with the proper use of streets, alleys and other public ways and places, and to cause minimal interference with the rights and reasonable convenience of property owners who adjoin any of said streets, alleys or other public ways and places. No pole or other fixture placed in any public way by the permittee shall be placed in such a manner as to interfere with normal travel on such public way.

(f) The Village does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In the rights of way, where necessary, the location shall be verified by excavation.

(g) Construction, installation, operation and maintenance of a utility or telecommunications system shall be performed in an orderly and workmanlike manner. When consistent with the safety codes and standards set forth in this chapter, all cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

(h) The permittee shall at all times comply with the applicable National Electrical Safety Code (National Bureau of Standards); the applicable National Electrical Code (National Fire Protection Association); applicable FCC or other Federal, State and local regulations; and standards as set forth in the permit.

(i) In any event, the system shall not endanger or interfere with the safety of persons or property in the permit area or other areas where the permittee may have equipment located.

(j) All worker facilities, conditions and procedures that are used during construction, installation, operation and maintenance of the utility or telecommunications system shall comply with applicable standards of the Federal Occupational Safety and Health Administration.

(k) The permittee shall provide either a performance record (or self bonding by the permittee having capitalization in excess of fifty million dollars (\$50,000,000) as determined by the Director), an irrevocable letter of credit acceptable to the Village, or a certified check in an amount determined by the Mayor, to pay the cost of restoration of the right of way should the permittee fail to perform restoration required by this chapter or the permit or to pay for the cost of removal or relocation of the system required by this chapter should the permittee fail to perform said removal or relocation.

(l) All permittees shall obtain a right of way work permit from the Director prior to beginning the erection, installation or maintenance, including tree trimming, of any lines or equipment. Prior Village approval shall not be required for emergency repairs, routine maintenance and repairs, operations which do not require excavation in the rights of way, blockage of any street or alley, or material disruption to any landscaping or structures and/or irrigation systems. The permittee and/or its subcontractors shall leave rights of way where such work is done in as good a condition or repair as they were before such work was commenced and to the reasonable satisfaction of the Village. Such right of way work permit shall be issued in writing and is subject to conditions that may be attached by the Director, including, but not limited to, requirements concerning traffic control, safety, scheduling, notification to adjoining property owners, and restoration with seed, sod or specific plant materials as directed by the Village. The permittee and/or its subcontractors shall endeavor to complete, in a timely manner, repairs to the rights of way. All workmanship and materials used by the permittee and/or its subcontractors to repair the streets and roadways shall be subject to the inspection and approval of the Director or his or her authorized agent and shall be warranted for a period of one year from the date of completion for any failure due to workmanship or quality of materials.

(m) The permittee shall furnish the Village "as built" drawings not later than 120 days after construction has been completed. Drawings shall show ownership of conduits, ducts, poles and cables used for the telecommunications or utility system. Drawings shall be drawn to a scale of one inch equals 100 feet using the standard format adopted by the Village. The permittee shall provide one set of such diskettes and one set of blue or black line "as built" drawings to the Mayor, and one set of drawings and diskettes to the Village Engineer. State plane coordinates shall be shown for benchmarks, curb lines and structures. Drawings shall show horizontal dimensions from the curb line and elevations. (Ord. 6-97. Passed 7-14-97.)

1477.10 USE OF FACILITIES BY VILLAGE.

(a) The Village shall have the option to request the right to install and maintain, free of charge, upon any poles and within any underground pipes and conduits or like facilities of any telecommunication and utility or special permittee, communications facilities ("Village facilities") solely for governmental use desired by the Village unless:

- (1) Such installation and maintenance unreasonably and materially interferes with existing and future operations of the permittees; or
- (2) Such installation and maintenance would be unduly burdensome to such permittee. Each permittee shall cooperate with the Village in the planning and design of its facilities so as to accommodate the Village's reasonably disclosed governmental requirements. Neither the Village facilities nor the capacity or bandwidth thereon shall be leased, licensed or otherwise made available to third parties. The Village's use and occupancy of a permittee's conduit shall be limited to the right to occupy a single inner duct in any given conduit and a single attachment to any given pole.

(b) The Village's right to use and occupy a permittee's poles or conduit shall be subject to any and all reasonable terms and conditions the permittee requires of other third party users of its poles and conduit. The Village shall pay the permittee the reasonable cost to make the poles or conduit ready for the Village's use and occupancy. Nothing herein shall be construed to require a permittee to construct poles or conduits where none exist or to rearrange, modify or alter its facilities on a pole or conduit in order to provide space for Village facilities where space is not otherwise available.

(Ord. 6-97. Passed 7-14-97.)

1477.11 INDEMNIFICATION AND INSURANCE.

(a) To the fullest extent permitted by law, all permittees shall, at their sole cost and expense, fully indemnify, defend and hold harmless the Village, its officers, public officials, boards, commissions, agents and employees, from and against any and all lawsuits, claims (including, without limitation, worker's compensation claims against the Village or others), causes of actions, actions, liability and judgments for injury or damage (including, but not limited to, expenses for reasonable legal fees and disbursements assumed by the Village in connection therewith):

- (1) To persons or property, in any way arising out of or through the acts or omissions of the permittee, its subcontractors, agents or employees, attributable to the occupation by the permittee of the right of way, to which the permittee's negligence shall in any way contribute, and regardless of whether the Village's negligence or the negligence of any other party shall have contributed to such claim, cause of action, judgment, injury or damage.
- (2) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm or corporation, or for the violation or infringement of any copyright, trademark, trade name, service mark or patent or any other right of any person, firm or corporation by the permittee, but excluding claims arising out of or relating to Village programming.
- (3) Arising out of the permittee's failure to comply with the provisions of any Federal, State or local statute, ordinances or regulations applicable to the permittee in its business hereunder.

(b) The foregoing indemnification is conditioned upon the Village:

- (1) Giving the permittee prompt notice of any claim or the commencement of any action, suit or proceeding for which indemnification is sought;
- (2) Affording the permittee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding subject to indemnification; and
- (3) Fully cooperating in the defense of such claim and making available to the permittee all pertinent information under the Village's control.

(c) The Village shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof, and the permittee shall pay the reasonable fees and expense of such separate counsel, if employed with the approval and consent of the permittee, or if representation of both the permittee and the Village by the same attorney would be inconsistent with accepted canons of professional ethics.

(d) Each permittee shall maintain insurance coverage (or self-insurance coverage by a permittee having capitalization in excess of fifty million dollars (\$50,000,000), as determined by the Mayor) in accordance with the following:

- (1) General liability insurance. The permittee shall maintain, and, by its acceptance of any permit granted hereunder, specifically agrees that it will maintain, throughout the term of the permit, general liability insurance insuring the permittee in the minimum amount of:
 - A. One million dollars (\$1,000,000) per occurrence;
 - B. Two million dollars (\$2,000,000) annual aggregate; and
 - C. One million dollars (\$1,000,000) excess general liability per occurrence and annual aggregate.

Such general liability insurance must be written on a comprehensive coverage form, including the following: premises/operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, and personal injury.

- (2) Automobile liability insurance. The permittee shall maintain, and, by its acceptance of any permit granted hereunder, specifically agrees that it will maintain, throughout the term of the permit, automobile liability insurance for owned, non-owned or rented vehicles in the minimum amount of:
- A. One million dollars (\$1,000,000) per occurrence; and
 - B. One million dollars (\$1,000,000) excess automobile liability per occurrence.
- (3) Worker's compensation and employer's liability insurance. The permittee shall maintain, and, by its acceptance of any permit granted hereunder, specifically agrees that it will maintain, throughout the term of the franchise, worker's compensation and employer's liability insurance, valid in the State of Ohio, in the minimum amount of:
- A. Statutory limit for Worker's Compensation;
 - B. One million dollars (\$1,000,000) for employer's liability per occurrence; and
 - C. One million dollars (\$1,000,000) excess employer liability.

(e) The liability insurance policies required by this section shall be maintained by the permittee throughout the term of the permit, and such other period of time during which the permittee is operating without a permit hereunder or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be cancelled nor the intention not to renew be stated until ninety days after receipt by the Village, by registered mail, of a written notice addressed to the Mayor of such intent to cancel or not to renew. Within sixty days after receipt by the Village of said notice, and in no event later than thirty days prior to said cancellation, the permittee shall obtain and furnish to the Village replacement insurance policies meeting the requirements of this section. (Ord. 6-97. Passed 7-14-97.)

1477.12 REMOVAL OF FACILITIES.

(a) In the event any nonresidential permittee intends to remove facilities, excluding normal repairs and maintenance, or abandon any facilities within the rights of way, such permittee shall submit a notice to the Mayor describing the portion of the facilities to be removed or abandoned and the date of removal or abandonment, which date shall not be less than thirty days from the date such notice is submitted to the Mayor. The permittee may not remove, destroy or permanently disable any such facilities after such notice without the written approval of the Mayor. The permittee shall remove and secure such facilities as set forth in the notice unless directed by the Mayor to abandon such facilities in place.

(b) Upon such abandonment, the Village may elect to accept title to the abandoned facility. Such acceptance shall be in writing and upon such acceptance, full title and ownership of such abandoned facility shall pass to the Village without the need to pay compensation to the permittee. The permittee shall, however, continue to be responsible for all taxes on such facilities or other liability associated therewith, until the date the same was accepted by the Village.

(c) Within thirty days following written notice from the Village, any permittee or other person that owns, controls or maintains any unauthorized telecommunications facility or related appurtenances within the rights of way of the Village shall, at its own expense, remove such facilities or appurtenances from the rights of way of the Village. A telecommunications facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon expiration or termination of the permittee's permit.
- (2) Upon abandonment of a facility within the rights of way of the Village.
- (3) If the system or facility was constructed or installed without the prior grant of a permit or franchise.
- (4) If the system or facility was constructed or installed without the prior issuance of a required construction permit.
- (5) If the system or facility was constructed or installed at a location not permitted by the permittee's permit.

(d) The Village retains the right and privilege to cut or move any telecommunications facilities located within the rights of way as the Village may determine to be necessary, appropriate or useful in response to any public health or safety emergency.

(e) Unless directly and proximately caused by willful, intentional or malicious acts by the Village, the Village shall not be liable for any damage to or loss of any telecommunications facility within the rights of way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling or work of any kind in the rights of way by or on behalf of the Village.

(f) When a residential permit is cancelled, the permittee shall remove all facilities installed in the right of way, at the permittee's expense.

(Ord. 6-97. Passed 7-14-97.)

1477.13 PERMIT REVOCATION.

(a) In addition to any rights set out elsewhere in this chapter, the Village reserves the right to seek termination of a permit pursuant to the provisions hereof, and all rights and privileges pertaining thereto, in the event that any of the following are found to have occurred:

- (1) A violation of any material provision of the permit;
- (2) The permittee becomes insolvent, or is adjudged a bankrupt;

- (3) An unauthorized sale, assignment or transfer of the permittee's permit or a substantial interest therein;
- (4) Misrepresentation by or on behalf of a permittee in any application to the Village;
- (5) Abandonment of telecommunications facilities in the rights of way;
- (6) Failure to relocate or remove facilities as required in this chapter; or
- (7) Failure to pay taxes, compensation, fees or costs when and as due the Village.

(b) Upon failure of the permittee to comply with the material terms of the permit, the Village may by ordinance terminate the permit in accordance with the procedures set forth in this section. Upon termination, all rights of the permittee shall immediately be divested without further act upon the part of the Village. At the Village's option and to the extent permitted or in the manner required by applicable State law, the Village shall either purchase the permittee's facilities in accordance with Section 1477.12 or the Village shall require or seek to require, as the case may be, the permittee to remove its facilities from the rights of way. If the Village requires removal, the permittee shall forthwith remove its structures or property from the rights of way and restore them to such condition as the Village may require. Upon failure to do so, the Village may perform the work and collect the cost thereof from the permittee. The cost thereof shall be a lien upon all facilities and property of the permittee. Such lien shall not attach to property of the permittee located on the poles of other utilities until removal of such property from the pole or poles.

- (c) (1) Upon written recommendation by the Director, or upon its own motion, Council shall give written notice to the permittee of the existence of a material violation or failure to comply with the permit. The permittee shall have a period of sixty days after receipt of such notice from the Village in which to cease such violation and comply with the terms and provisions hereof. In the event the permittee fails to cease such violation or to otherwise comply with the terms hereof, then the permittee's permit is subject to termination under the following provisions, provided, however, that if the permittee commences work or other efforts to cure such violations within thirty days after receipt of written notice and shall thereafter prosecute each curative work with reasonable diligence until such curative work is completed, then such violations shall cease to exist, and the permit will not be terminated. If the curative work is not completed within ninety days of commencement of such work, the permittee and the Mayor shall report to the Village with respect to the progress made on such curative work and the anticipated completion date.

- (2) Termination shall be declared only by a written decision of Council after an appropriate public proceeding whereby the permittee is afforded the full opportunity to be heard and to respond to any such notice of violation or failure to comply. The permittee shall be provided at least ten days prior written notice of any public hearing concerning the termination of the permit and, in addition, ten days notice by publication shall be given of the date, time and place of any public hearing to interested members of the public, which notice shall be paid for by the permittee.
- (3) Council, after a full public hearing, and upon finding a material violation or failure to comply, may, in its discretion, terminate the permit or impose a lesser penalty than termination of the permit, including, but not limited to, a penalty of up to one thousand dollars (\$1,000) per day per violation, or excuse the violation or failure to comply upon a showing by the permittee of mitigating circumstances or upon a showing of good cause for said violation or failure to comply as may be determined by Council.

(d) The Village shall have the right to terminate the permit 120 days after the appointment of a receiver, or trustee, to take over and conduct the business of the permittee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of 120 days period or unless:

- (1) Within 120 days after his or her election or appointment, such receiver or trustee shall have fully complied with all the provisions of the permit and remedied all defaults thereunder; and
 - (2) Such receiver or trustee, within said 120 days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of the permit.
- (Ord. 6-97. Passed 7-14-97.)

1477.14 RESERVATION OF RIGHTS BY VILLAGE.

(a) Nothing in this chapter shall be construed to prevent the Village from constructing, maintaining, repairing or relocating any Village utility, communications or like facilities; grading, paving, maintaining, repairing, relocating or altering any street or right of way; or constructing, maintaining, relocating or repairing any sidewalk or other public work or improvement.

(b) Nothing in this chapter should be construed so as to grant any right or interest in any right of way, other than that explicitly set forth herein or in a permit.

(Ord. 6-97. Passed 7-14-97.)

1477.15 TEMPORARY REMOVAL OF FACILITIES.

In the event it is necessary temporarily to move or remove any of the permittee's wires, cable, poles or other facilities placed pursuant to this chapter, in order to lawfully move a large object, vehicle, building or other structure over the streets of the Village, upon five days written notice by the Village to the permittee, the permittee shall, at the expense of the person requesting the temporary removal of such facilities, comply with the Village's request. (Ord. 6-97. Passed 7-14-97.)

1477.16 PERMIT NON-TRANSFERABLE; EXCEPTION.

A permit granted hereunder may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the permittee, by operation of law or otherwise, without the prior consent of the Village, which consent shall not be unreasonably withheld or delayed, as expressed by ordinance, and then only on such reasonable conditions as may be prescribed therein. No transfer of a permit shall be approved unless the assignee or transferee has the legal, technical, financial and other requisite qualifications to own a permit pursuant to this chapter. Unless otherwise provided in a permit, the permittee shall reimburse the Village for all direct and indirect fees, costs and expenses reasonably incurred by the Village in considering a request to transfer or assign a permit. Any transfer or assignment of a permit without prior approval of the Village or pursuant to a permit shall be void and is cause for revocation of the permit. (Ord. 6-97. Passed 7-14-97.)

1477.17 SEPARABILITY.

If any section, subsection, sentence, clause, phrase or other portion of this chapter, or its application to any person, is, for any reason, declared invalid, in whole or in part, by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

(Ord. 6-97. Passed 7-14-97.)

1477.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Nothing in this chapter shall be construed as limiting any judicial remedies that the Village may have, at law or in equity, for enforcement of this chapter.

CHAPTER 1478
Wireless Telecommunications Facilities

1478.01 Purpose; intent.	1478.08 Residential districts; exceptions.
1478.02 Application of chapter.	1478.09 Criteria for a conditional use.
1478.03 Definitions.	1478.10 Colocation requirements.
1478.04 Permitted or conditional uses.	1478.11 Abandonment of towers.
1478.05 General requirements.	1478.12 Variances and special exceptions.
1478.06 Permitted ancillary uses on structures.	1478.13 Enforcement.
1478.07 Nonresidential districts.	1478.99 Penalty.

CROSS REFERENCES

"Property" defined to include cable television service - see GEN. OFF.

606.01(o)

"Services" defined to include cable television service - see GEN. OFF.

642.01(a), (r)

Cable television - see B.R. & T. Ch. 808

Antennas - see P. & Z. 1274.06, 1274.07

1478.01 PURPOSE; INTENT.

The purpose of this chapter is to regulate the placement, construction and modification of towers and wireless telecommunications facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the Village. Specifically, the purposes of this chapter are to:

- (a) Direct the location of towers and wireless telecommunications facilities in the Village.
- (b) Protect residential areas and land uses from potential adverse impacts of towers and wireless telecommunications facilities.
- (c) Minimize adverse visual impacts of towers and wireless telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques.
- (d) Promote and encourage shared use/colocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers.

- (e) Avoid potential damage to adjacent properties caused by towers and wireless telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained and removed.
- (f) To the greatest extent feasible, ensure that towers and wireless telecommunications facilities are compatible with surrounding land uses.
- (g) To the greatest extent feasible, ensure that proposed towers and wireless telecommunications facilities are designed in harmony with natural settings and in a manner consistent with current development patterns.
(Ord. 5-97. Passed 7-14-97.)

1478.02 APPLICATION OF CHAPTER.

(a) All towers, antenna support structures and wireless telecommunications facilities, any portion of which are located within the Village, are subject to this chapter.

(b) Except as provided in this chapter, any use being made of an existing tower or antenna support structure on the effective date of this chapter, (hereinafter "nonconforming structures" shall be allowed to continue, even if such use is in conflict with the terms of this chapter. Any tower site that has received Village approval in the form of either a special exception or building permit, but has not yet been constructed or located, shall be considered a nonconforming structure so long as such approval is current and not expired. (Ord. 5-97. Passed 7-14-97.)

1478.03 DEFINITIONS.

For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this section. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Antenna Support Structure" means any building or other structure other than a tower which can be used for location of wireless telecommunications facilities.
- (b) "Applicant" means any person that applies for a conditional use permit pursuant to Section 1478.09.
- (c) "Application" means the process by which an applicant submits a request and indicates a desire to be granted a conditional use permit under the provisions of this chapter. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the Village concerning such a request.
- (d) "Code" means the Codified Ordinances of the Village.
- (e) "Colocation" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

- (f) "Council" means the Village Council.
- (g) "Emergency" means a reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.
- (h) "Engineer" means any engineer license by the State of Ohio.
- (i) "Equipment Shelter" means the structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.
- (j) "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- (k) "Monopole" means a support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.
- (l) "Open Space" means land devoted to conservation or recreational purposes and/or land designated by a municipality to remain undeveloped (may be specified on a zoning map).
- (m) "Person" means any natural person, firm, partnership, association, corporation, company or other legal entity, private or public, whether for profit or not for profit.
- (n) "Tower" means a self-supporting lattice, guyed or monopole structure constructed from grade which supports wireless telecommunications facilities. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.
- (o) "Viewshed" means the area surrounding a wireless telecommunications facility or antenna support structure, within which the facility or structure is visible from street level.
- (p) "Village" means the Village of Minerva Park, a municipal corporation, in the State of Ohio, acting by and through its Village Council.
- (q) "Wireless Telecommunications Facilities" means any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a person seeks to locate or has installed upon a tower or antenna support structure. However, the term shall not include:
 - (1) Any satellite earth station antenna two meters or less in diameter, which is located in an area zoned industrial or commercial;
 - (2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.
 - (3) Antennas used by amateur radio operators.(Ord. 5-97. Passed 7-14-97.)

1478.04 PERMITTED OR CONDITIONAL USES.

Wireless telecommunications facilities are either permitted uses or conditional uses in a variety of zoning districts, contingent upon a number of requirements being met. These criteria are in place in an attempt to minimize adverse health, safety, public welfare or visual impacts through buffering, siting, design and construction and reduction in the need for new towers. (Ord. 5-97. Passed 7-14-97.)

1478.05 GENERAL REQUIREMENTS.

The following requirements apply to all wireless telecommunications facilities regardless of the zoning district in which they are to be located. These general standards are to be supplemented with the specific regulations for nonresidential and residential districts as set forth in Sections 1478.07 and 1478.08.

- (a) When the proposed wireless telecommunications facility or antenna support structure is to include a new tower, a plot plan at a scale of not less than one inch equals 100 feet shall be submitted. This plot plan shall indicate all building uses within 200 feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
- (b) A diagram or map showing the viewshed of the proposed wireless telecommunications facilities or antenna support structure shall be provided.
- (c) Photosimulations of the proposed facility from affected residential properties and public rights of way at varying distances shall be provided.
- (d) The location of the tower and equipment shelter and antenna support structure shall comply with all natural resource protection standards established in the Zoning Code, including those for floodplains, wetlands and steep slopes.
- (e) Security fencing eight feet in height shall surround the tower, equipment shelter and any guy wires, either completely or individually, as determined by the Planning and Zoning Commission. No barbed or razor wire shall be permitted in residential neighborhoods. The City and colocators shall have reasonable access. No fence shall be required on top of a building or other structure if access to the roof or top of the structure or building is secure.
- (f) Buffer plantings may be located around the perimeter of the security fence as deemed appropriate by the Planning and Zoning Commission. Options are an evergreen screen to be planted that consists of either a hedge, planted three feet on center maximum, or a row of evergreen trees planted five feet on center maximum, or other screens determined to be appropriate by the Planning and Zoning Commission.
- (g) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- (h) Compliance with colocation requirements is required.
- (i) Any application to locate a wireless telecommunications facility on a building or structure that is listed on an historic register, or is in an historic district, shall be subject to review by the Village's Planning and Zoning Commission.
- (j) The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA). Except for tower or monopole structures, all appurtenances shall be aesthetically and architecturally compatible with the surrounding environment.
- (k) No advertising is permitted anywhere on the wireless telecommunications facility, with the exception of identification signage.

- (l) No tower under 150 feet shall be artificially lighted except to ensure safety or as required by the FAA.
- (m) "No Trespassing" signs shall be posted around the wireless telecommunications facility with a telephone number of who to contact in the event of an emergency.
- (n) Underground equipment shelters are encouraged in Residential Districts and may be requested by the Planning and Zoning Commission.
- (o) Towers must be designed and certified by an engineer to be structurally sound and, at a minimum, in compliance with the Ohio Basic Building Code.
(Ord. 5-97. Passed 7-14-97.)

1478.06 PERMITTED ANCILLARY USES ON STRUCTURES.

Any wireless telecommunications facilities which are not attached to a tower shall be a permitted ancillary use to any commercial, industrial, professional, institutional or multi-family structure, regardless of the zoning restrictions applicable to the zoning district where the structure is located and without having to obtain any prior authorization from the Village, provided that the person making such ancillary use files a written certification with the Village establishing the following:

- (a) That the total height of the antenna support structure and wireless telecommunications facilities do not exceed the structural height limitations of the FAA in the applicable zoning district under Section 1274.07;
- (b) That the antenna support structure and wireless telecommunications facilities comply with the Ohio Basic Building Code;
- (c) That any wireless telecommunications facilities and their appurtenances, located on the roof of a building, are set back one foot from the edge of the roof, not including the penthouse, for each one foot in height of the wireless telecommunications facilities. However, this setback requirement shall not apply to antennas less than two inches in thickness, which are mounted to the sides of antenna support structures, but which do not protrude more than six inches from the side of such an antenna support structure. This requirement is subject to change by the Planning and Zoning Commission upon review of the photosimulation provided in compliance with Section 1478.05(b).
- (d) That the wireless telecommunications facilities will utilize camouflaging techniques or will be side-mounted to an antenna support structure in order that the wireless telecommunications facilities harmonize with the character and environment of the area in which they are located.
(Ord. 5-97. Passed 7-14-97.)

1478.07 NONRESIDENTIAL DISTRICTS.

Wireless telecommunications facilities proposed for Industrial, Commercial and Institutional Districts are subject to the following conditions:

- (a) Sole Use on a Lot. A wireless telecommunications facility is permitted as a sole use on a lot subject to the following:
 - (1) Minimum lot size. The minimum lot size for Industrial, Commercial and Institutional Districts shall be 10,000 square feet.
 - (2) Minimum yard requirements. Minimum yard requirements shall be as follows:
 - A. Tower. The minimum distance to any single-family or two-family residential use or district lot line shall be 200 feet.
 - B. Equipment shelter. The minimum setback shall be thirty feet between the established building line and the street right of way. Side yards must be eighteen feet or more, with a minimum of eight feet on one side, rear yards shall be twenty-five percent or more of the lot depth, except that a rear yard of more than fifty feet shall not be required.
 - (3) Maximum height. The maximum height of a tower or an equipment shelter shall be as follows:
 - A. Tower: 200 feet (includes antenna).
 - B. Equipment shelter: Equipment shelters shall be not more than thirty-five feet in height.
 - (4) Maximum size of equipment shelter. The maximum size of an equipment shelter shall be 400 square feet for a single shelter or, if there is more than one, 800 square feet.
- (b) Combined With Another Use. A wireless telecommunications facility is permitted on a property with an existing use, subject to the following conditions:
 - (1) Existing or future use on the property. The existing or future use on the property may be any permitted use in the district or any lawful nonconforming use and need not be affiliated with the wireless telecommunications provider. The wireless telecommunications facility will not be considered an addition to the structure or the value of a nonconforming use.
 - (2) Fully-automated facility. The wireless telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
 - (3) Minimum lot area. The minimum lot area shall be the area needed to accommodate the tower (and guy wires, if used), the equipment shelter, security fencing and buffer planting.

- (4) Minimum yard requirements. Minimum yard requirements shall be as follows:
 - A. Tower. The minimum distance to any single-family or two-family residential use or district lot line shall be 200 feet.
 - B. Equipment shelter. Equipment shelters shall comply with the minimum setback requirements for the primary lot.
 - (5) Service access. Service access to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
 - (6) Maximum height. The maximum height of a tower or equipment shelter shall be as follows:
 - A. Tower: 200 feet (includes antenna).
 - B. Equipment shelter: The maximum building height in Industrial, Commercial and Institutional Districts shall be thirty-five feet.
 - (7) Maximum size of equipment shelter. The maximum size of an equipment shelter shall be 400 square feet for a single shelter or, if there is more than one, 800 square feet.
- (c) Combined With an Existing Structure. Where possible, an antenna for a wireless telecommunications facility shall be attached to an existing structure or building, subject to the following conditions:
- (1) Maximum height. The maximum height of an antenna shall be twenty feet, or twenty percent of the building height above the existing building or structure, whichever is greater.
 - (2) Separate shelters. If the applicant proposes to locate the telecommunications equipment in a separate shelter (not located on, or attached to, the building), the shelter shall comply with the following:
 - A. The shelter shall comply with the minimum setback requirements for the subject zoning district.
 - B. A buffer yard may be planted in accordance with Section 1478.05(f).
 - C. Vehicular access to the shelter shall not interfere with parking or vehicular circulation on the site for the principal use.
 - D. The maximum size of the equipment shelter shall be 400 square feet or, if there is more than one, 800 square feet.
- (Ord. 5-97. Passed 7-14-97.)

1478.08 RESIDENTIAL DISTRICTS; EXCEPTIONS.

Wireless telecommunications facilities that include towers are not permitted in single-family or two-family residential districts, with the exception of the placement on any property with an institutional use (e.g. a church, park, library, municipal/governmental building, facility or structure, hospital, school or utility) located in either of these two districts. However, antennas attached to existing buildings or structures are permitted. In applying for a permit in any residential district, the

applicant must present sufficient evidence as to why it is not technically feasible to locate such facilities in a more appropriate nonresidential zone. Once those efforts have been exhausted, a wireless telecommunications facility may be located in a residential district subject to the following conditions:

- (a) Fully Automated Facility Required. The wireless telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic and necessary maintenance. This provision shall also apply to subsections (b), (c), (d) and (e) hereof.
- (b) Combined With a Nonresidential Use. An antenna may be attached to a nonresidential building, or to a structure that is a permitted use in the district, including, but not limited to, a church, a municipal or governmental building or facility, an agricultural building and a building or structure owned by a utility. The following conditions shall be met:
 - (1) The maximum height of an antenna shall be twenty feet above the existing building or structure.
 - (2) If the applicant proposes to locate the telecommunications equipment in a separate equipment shelter, the shelter shall comply with the following:
 - A. The shelter shall comply with the minimum setback requirements for the subject zoning district.
 - B. The maximum size of the equipment shelter shall be 400 square feet or, if there is more than one, 800 square feet.
 - C. A buffer yard shall be planted in accordance with Section 1478.05(f).
 - D. Vehicular access to the shelter shall not interfere with parking or vehicular circulation on the site for the principal use.
- (c) Located on a Nonresidential Property. A tower to support an antenna may be constructed on a property with a nonresidential use that is a permitted use within the district, including, but not limited to, a church, hospital, school, municipal or governmental building, facility or structure, an agricultural use and a utility use, subject to the following conditions:
 - (1) The tower shall be set back from any property line abutting a single-family or two-family residential lot by 200 feet.
 - (2) The maximum height of a tower or equipment shelter shall be as follows:
 - A. Tower: 200 feet (includes antenna).
 - B. Equipment shelter: The equipment shelter shall be not more than thirty-five feet in height.
 - (3) The maximum size of the equipment shelter shall be 400 square feet or, if there is more than one, 800 square feet.
 - (4) Vehicular access to the tower and equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.

- (5) In order to locate a telecommunications facility on a property that is vacant or with an agricultural use, the tract shall be at least 2.5 acres in size, or as otherwise determined by the Planning and Zoning Commission.
- (d) Located on a Residential Building. An antenna for a wireless telecommunications facility may be attached to a mid-rise or high-rise apartment building subject to the following conditions:
- (1) The maximum height shall be twenty feet above the existing building.
 - (2) If the applicant proposes to locate the telecommunications equipment in a separate equipment shelter (not located in, or attached to, the building), the shelter shall comply with the following:
 - A. The shelter shall comply with the maximum setback requirements for the subject zoning district.
 - B. The maximum size of the equipment shelter shall be 400 square feet or, if there is more than one, 800 square feet.
 - C. A buffer yard shall be planted in accordance with Section 1478.05(f).
 - D. Vehicular access to the shelter shall, if at all possible, use the existing circulation system.
- (e) Located in an Open Space or Park. A wireless telecommunications facility is permitted on land that has been established as permanent open space or a park, subject to the following conditions:
- (1) Ownership. The open space shall be owned by the Municipality, the County, the State, a homeowners association, a charitable organization or a private, nonprofit conservation organization.
 - (2) Maximum height. The maximum height of a tower or equipment shelter shall be as follows:
 - A. Tower: 200 feet (includes antenna).
 - B. Equipment shelter: The equipment shelter must comply with the maximum building height requirements for the district in which it is located.
 - (3) Maximum size of equipment shelter. The maximum size of the equipment shelter shall be 400 square feet for a single shelter or, if there is more than one, 800 square feet.
 - (4) Tower setback. The tower shall be set back from any single-family or two-family property line 200 feet.
(Ord. 5-97. Passed 7-14-97.)

1478.09 CRITERIA FOR A CONDITIONAL USE.

(a) A wireless telecommunications facility, which includes a tower, may be permitted as a conditional use in a residential or commercial district. In order to be considered for review, the applicant must prove that a newly-constructed tower is necessary because collocation on an existing tower is not feasible in accordance with Section 1478.10. The following steps must also be taken for the application to be considered for review in this category:

- (1) The applicant shall demonstrate that the telecommunications tower must be located where it is proposed to order to service the applicant's service area. There shall be an explanation of why a tower and this proposed site are technically necessary.
- (2) Where the wireless telecommunications facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property supports the application and that vehicular access is provided to the facility.
- (3) The applicant shall present a site/landscaping plan showing the specific placement of the wireless telecommunications facilities on the site; showing the location of existing structures, trees and other significant site features; and indicating the types and locations of plant materials used to screen the facilities and the proposed color of the facilities.
- (4) The applicant shall present a signed statement indicating:
 - A. That the applicant agrees to allow for the potential collocation of additional wireless telecommunications facilities by other providers on the applicant's structure or within the same site location; and
 - B. That the applicant agrees to remove the facility within 180 days after the site's use is discontinued.

(b) A conditional use permit must be approved by the Planning and Zoning Commission and/or the Council, with a subsequent building permit issued by the Building Commissioner for construction of new towers in nonindustrial districts. Collocation of antennas on a single tower, antennas attached to existing structures or buildings, towers located in industrial districts, or replacement towers to be constructed at the site of a current tower, are permitted uses and will not be subject to the conditional use permitting process.

(c) Any decision to deny a request to place, construct or modify a wireless telecommunications facility and/or tower shall be in writing and supported by evidence contained in a written record of the proceedings of the Planning and Zoning Commission. (Ord. 5-97. Passed 7-14-97.)

1478.10 COLOCATION REQUIREMENTS.

- (a) (1) In order to encourage the location of wireless telecommunications facilities on publicly-owned property, the Village shall undertake an identification of publicly-owned properties that the Village determines are suitable for such use. The Village shall regularly update such identification and make the results of such identification available to the public.
- (2) Persons locating wireless telecommunications facilities upon such identified publicly-owned properties shall be exempt from the requirements herein regarding presentation of proof that colocation of facilities on towers or structures owned by other persons or in other locations is not available. However, persons locating wireless telecommunications facilities on publicly-owned properties shall continue to be subject to the requirements contained in subsection (b) hereof.
- (3) In addition, persons locating wireless telecommunications facilities on publicly-owned properties identified by the Village to be suitable for such purposes shall be exempt from the requirement of Sections 1478.05(a) to (c) and 1478.09(a)(2) to (4).
- (b) No new tower shall be constructed in the Village unless such tower is capable of accommodating at least one additional wireless telecommunications facility owned by other persons.
- (c) A conditional use permit shall be issued only if there is not a technically suitable space reasonably available on an existing tower or structure within the geographic area to be served. With the permit application, the applicant shall list the location of every tower, building or structure within such area that could support the proposed antenna. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building or structure. If another communications tower is technically suitable, the applicant must show that it has offered to allow the owner to collocate an antenna on another tower within the Village owned by the applicant on reciprocal terms and that the offer was not accepted, or the other tower is presumed to be reasonably available.
- (Ord. 5-97. Passed 7-14-97.)

1478.11 ABANDONMENT OF TOWERS.

- (a) All providers utilizing towers shall present a report to the Mayor notifying the Mayor of any tower facility located in the Municipality whose use will be discontinued and the date that use will cease. If, at any time, the use of a facility is discontinued for 180 days, a designated local official may declare the facility abandoned. (This excludes any dormancy period between construction and the initial use of the facility.) The facility's owner/operator will receive written notice from the Building Commissioner and shall be instructed to either reactivate the facility's use within 180 days, or dismantle and remove the facility. If reactivation or dismantling does not occur, the Municipality will remove or will contract to have removed the facility and assess the owner/operator the costs.

(b) The Village must provide the tower owner with three months notice and an opportunity to be heard before the Planning and Zoning Commission prior to initiating such action. After such notice has been provided, the Village shall have the authority to initiate proceedings to either acquire the tower and any appurtenances attached thereto at the then fair market value, or in the alternative, order the demolition of the tower and all appurtenances thereto.

(c) The Village shall provide the tower owner with the right to a public hearing before the Planning and Zoning Commission, which public hearing shall follow the three-month notice required in subsection (b) hereof. All interested parties shall be allowed an opportunity to be heard at the public hearing.

(d) After a public hearing is held pursuant to subsection (c) hereof, the Planning and Zoning Commission may order the acquisition or demolition of the tower. The Village may require the licensee to pay for all expenses necessary to acquire or demolish the tower. (Ord. 5-97. Passed 7-14-97.)

1478.12 VARIANCES AND SPECIAL EXCEPTIONS.

Any request to deviate from any of the requirements of this chapter shall require variance approval in compliance with the procedures set forth in Section 1212.05 of the Planning and Zoning Code. (Ord. 5-97. Passed 7-14-97.)

1478.13 ENFORCEMENT.

Nothing in this chapter shall preclude the Village from exercising any right or remedy it may have in law or equity to enforce the terms and conditions of this chapter. (Ord. 5-97. Passed 7-14-97.)

1478.14 SEPERABILITY.

If any provisions of this chapter or the application of any provision of this chapter to any person is, to any extent, held invalid or unenforceable by a tribunal of competent jurisdiction, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected by such holding. In case of such an event, this chapter and all of its remaining provisions shall, in all other respects, continue to be effective. In the event the law invalidating a provision of this chapter is subsequently repealed, rescinded, amended or is otherwise changed so that the provision which had previously been held invalid or unenforceable no longer conflicts with the laws, rules or regulations then in effect, the previously invalid or unenforceable provision shall return to full force and effect. (Ord. 5-97. Passed 7-14-97.)

1478.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

TITLE EIGHT - Housing
Chap. 1480. International Property Maintenance Code.

CHAPTER 1480
International Property Maintenance Code

EDITOR'S NOTE: This chapter, previously entitled "BOCA National Property Maintenance Code," was re-titled "International Property Maintenance Code" upon the adoption of the 1998 edition of such Code as part of the 1999 updating and revision of these Codified Ordinances.

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|---------|--------------------------------|---------|--|
| 1480.01 | 1998 edition adopted; purpose. | 1480.08 | Service of notice. |
| 1480.02 | File and distribution copies. | 1480.09 | Right to make immediate repairs. |
| 1480.03 | Amendments. | 1480.10 | Appeal. |
| 1480.04 | Appeals Board. | 1480.11 | Abatement of a public nuisance by the Board of Nuisance Abatement. |
| 1480.05 | Conflicts of laws. | 1480.12 | Emergency orders. |
| 1480.06 | Definitions. | | |
| 1480.07 | Nuisance abatement. | | |

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26(B)

Adoption of technical codes by reference - see Ohio R.C. 731.231

1480.01 1998 EDITION ADOPTED; PURPOSE.

Pursuant to Ohio R.C. 731.231, there is hereby adopted, by and for the Village, for the control of buildings and structures as therein provided, the International Property Maintenance Code, being particularly the 1998 edition thereof, promulgated by International Code Council, Inc., save and except such portions as may be hereinafter amended or deleted, which Code is incorporated as fully as if set out at length herein.

1480.02 FILE AND DISTRIBUTION COPIES.

At least one copy of the International Property Maintenance Code, as adopted in Section 1480.01, is on file with the Clerk-Treasurer for inspection by the public. At least one copy of such Code is also on file in the County Law Library. In addition, the Clerk-Treasurer shall keep copies of such Code available for distribution to the public, at cost.

1480.03 AMENDMENTS.

The International Property Maintenance Code, as adopted in Section 1480.01, is hereby amended as follows:

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| Section 101.1 (page 1, second line). | Insert: Village of Minerva Park, Ohio. |
| Section 103.6 (page 2 fourth line). | Insert: Fees shall be as determined from time to time by Council. |
| Section 303.15 (page 10, first and second lines). | Insert: June 1 to September 1. |
| Section 602.3 (page 17, fifth line). | Insert: September 1 to June 1 of the following year. |
| Section 602.4 (page 17, third line). | Insert: September 1 to June 1 of the following year. |

1480.04 APPEALS BOARD.

Council shall serve as the Appeals Board provided for in Section 111.2 of the International Property Maintenance Code, as adopted in Section 1480.01.

1480.05 CONFLICTS OF LAWS.

(a) In the event of a conflict between a provision of the International Property Maintenance Code, as adopted in Section 1480.01, and a provision of State law, the State law shall control.

(b) In the event of a conflict between a provision of the International Property Maintenance Code, as adopted in Section 1480.01, and a provision of any other standard technical code adopted by the Village, the stricter standard shall control.

(c) In the event of a conflict between a provision of the International Property Maintenance Code, as adopted in Section 1480.01, and a provision of any local ordinance, resolution, rule or regulation, the local ordinance, resolution, rule or regulation shall control.

1480.06 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply:

- (1) "Code Enforcement Officer" means the Mayor or any of his or her duly authorized representatives.
- (2) "Owner" means the owner of record as shown on the current tax list of the Auditor of Franklin County, Ohio; the mortgage holder of record, if any, as shown in the mortgage records of the Recorder of Franklin County, Ohio; and any purchase under a land contract. "Owner" also means any person who has a freehold or lesser estate in the premises; a mortgagee or vendee in possession; or any person who has charge, care or control of the premises as agent, executor, administrator, assignee, receiver, trustee, guardian or lessee.
- (3) "Public nuisance" means any structure which is permitted to be or remain in any of the following conditions:
 - A. In a dilapidated, decayed, unsafe or unsanitary condition detrimental to the public health, safety, and welfare, or well-being of the surrounding area;
 - B. A fire hazard;
 - C. Any vacant building that is not secured and maintained in compliance with Chapter 4513; or
 - D. Land, real estate, houses, buildings, residences, apartments, or premises of any kind, which are used in violation of any division of Ohio R.C. 2925.13."Public nuisance" also means any structure or real property which is not in compliance with any building, housing, zoning, fire, safety, air pollution, health or sanitation ordinance of the Village, or any real property upon which its real property taxes have remained unpaid in excess of one year from the date of assessment.

(Ord. 7-2002. Passed 10-14-02.)

1480.07 NUISANCE ABATEMENT.

(a) Whenever the Building Inspector or Zoning Inspector has reason to believe the existence of a public nuisance as defined by Section 1480.06, in the Village, or learns of the apparent existence of such nuisance, he or she shall promptly cause such alleged public nuisance to be inspected by a qualified Code Enforcement Inspector. Following such inspection, should the Building Inspector or Zoning Inspector determine that there are reasonable grounds to believe that a public nuisance exists, he or she shall exhaust all reasonable means of abatement through normal enforcement procedures before he or she shall submit the building, structure, or site to the Chairman of the Board of Nuisance Abatement.

(b) The Chairman of the Board of Nuisance Abatement shall cause a hearing to be held by the Board of Nuisance Abatement on the question of the existence of a public nuisance.

(c) The owner of the property in question or his or her duly authorized representative or agent, shall be notified of the date, time and place of such a hearing in accordance with the provisions of Section 1480.08 and shall be given an opportunity of appearing in person or through a duly authorized representative or agent, at such hearing and of presenting such evidence as may be pertinent to the question of the possible existence of the public nuisance.

(d) Prior to the meeting of the Board of Nuisance Abatement, called to consider the question of the existence of a public nuisance, the property in question shall be inspected by qualified representatives of the Fire Division, the Building Inspector and the Zoning Inspector, and photographs of the subject property shall be taken to depict the property condition. Reports of these inspections and the photographs of the property will be made available to the Board of Nuisance Abatement at the subject hearing.

(e) The Board of Nuisance Abatement shall be composed of the Mayor, the Chief of the Bureau of Fire Prevention, the Chairman of the Planning and Zoning Commission, the building official and the Village Council representative to the Planning Commission, or their duly authorized representatives. The Mayor, or his or her authorized representative, shall serve as Chairman of the Board of Nuisance Abatement.

(f) It shall be necessary to have a concurring vote of at least three members of said Board for a finding that a public nuisance, as defined in Section 1480.06(a) does exist.

(g) The Board of Nuisance Abatement following the hearing, shall cause a written order to be served on the owner of the subject property, in accordance with the provisions of Section 1480.08, stating the findings of said Board with respect to the existence of a public nuisance and the manner in which abatement is to be accomplished. If the Board finds that a public nuisance does exist, the order shall include:

- (1) Where abatement can be accomplished by securing the structure, a directive for the owner to secure and maintain the structure in compliance with existing laws and ordinances.
- (2) Where abatement of the nuisance can be accomplished through repair or rehabilitation, a list of repair or rehabilitation specifications required to abate the public nuisance.

(h) All order issued by the Board of Nuisance Abatement shall state that unless the owner of the subject property shall cause the abatement of the public nuisance, the same will be abated by the Village at the expense of said owner. Such abatement by said owner shall start within 15 days after receipt of the order and shall be completed within 45 days or, where abatement is to be accomplished through repair or rehabilitation, such additional time as the Mayor, or his or her duly authorized representative, may deem necessary to complete the abatement of the public nuisance.

(Ord. 7-2002. Passed 10-14-02.)

1480.08 SERVICE OF NOTICE.

The notice of hearing required under Section 1480.07(c) shall be served by mailing a copy to the owner, as defined in Section 1480.06 by United States certified mail with return receipt requested, or by personally serving such owner with a copy of said notice. If service of the notice provided for in Section 1480.07 is not perfected by either of the hereinbefore described methods, then the Board of Nuisance Abatement shall cause such notice to be published in a newspaper of general circulation in the Village, once each week for two consecutive weeks prior to the date of such hearing. Service of the order provided for in Section 1480.07(g) shall be in the manner provided herein. If service of the order provided for in Section 1480.07(g) is not perfected by certified mail or personal service as hereinbefore described, then the Board of Nuisance Abatement shall cause such notice to be published in a newspaper of general circulation in the Village, once each week for two consecutive weeks. However, such a published order shall not include a list of the repair or rehabilitation specifications mentioned in Section 1480.07(2).

(Ord. 7-2002. Passed 10-14-02.)

1480.09 RIGHT TO MAKE IMMEDIATE REPAIRS.

(a) Upon being served the order as provided for in Section 1480.07(g) and Section 1480.08, the owner may make immediate application in writing or in person to the Village for a special building permit to undertake the repairs or replacement of the items, as described in the list of rehabilitation specifications, found to constitute the public nuisance.

(b) Such application for a special building permit shall be made as provided for in division (a) of this section, within 15 days following receipt of the order provided for in Section 1480.07(g). This special building permit shall be issued for a period of 30 days and within said 30 days the owner will effect and complete the repairs or replacements, or the Mayor, or his or her duly authorized representative, may authorize an extension to the special building permit if the owner shows cause or reason for the requested extension.

(Ord. 7-2002. Passed 10-14-02.)

1480.10 APPEAL.

(a) The said owner may make a demand in writing to the Chairman of the Nuisance Abatement Board for an appeal on the question of whether a public nuisance, as defined in Section 1480.06 does exist, within ten days after the completion of service of the order of the findings of the Board of Nuisance Abatement. The Board of Nuisance Abatement shall, within ten days after receiving a written request for an appeal, forward all inspection reports, photographs, and any other materials submitted into evidence, together with the written order issued by the Board of Nuisance Abatement to the Planning and Zoning Commission.

(b) The owner of the property in question, or his or her duly authorized representative or agent, shall be notified of the date, time and place of the appeal hearing in accordance with the provisions of Section 1480.08 and shall be given an opportunity of appearing in person, or through a duly authorized representative or agent, at such hearing and of presenting such evidence as may be pertinent to the question of the existence of the public nuisance.

(c) The appeal shall be heard by the Planning and Zoning Commission within not less than ten days nor more than 60 days after the receipt of the written demand for an appeal provided for in Section 1480.10(a).

(d) Four members of the Planning and Zoning Commission, after reviewing the material from the Board of Nuisance Abatement, and any pertinent evidence presented by the owner, or his or her duly authorized representative, must concur that a public nuisance, as defined in Section 1480.06, does exist before enforcement of the abatement provisions of this chapter are carried out. A copy of the decision affirming, reversing or modifying the findings and order of the Board of Nuisance Abatement shall be served upon the owner in the manner provided for in Section 1480.08.

(Ord. 7-2002. Passed 10-14-02.)

1480.11 ABATEMENT OF A PUBLIC NUISANCE BY THE BOARD OF NUISANCE ABATEMENT.

(a) Upon failure of the property owner to abate a nuisance:

- (1) Prior to the expiration time of a special building permit;
- (2) If no special building permit was issued, within 15 days of completion of service of the written order of the Board of Nuisance Abatement;
- (3) Within 20 days of the completion of service of the decision of the Planning and Zoning Commission, when appeal is made thereto;
- (4) Within such additional reasonable time, for good cause shown, as the Mayor may grant, his or her authorized agent is hereby authorized to cause entry upon said premises and the owner shall permit such entry to abate the nuisance by demolition and removal of the structure, or by boarding all windows, exterior doors and other openings to secure the structure any by removal of litter and cutting of rank growth that may be present.

(b) In abating such nuisance, the Mayor shall obtain the abatement thereof through competitive bidding and by private contract and the costs of such private contract shall be paid for from Village funds, or from funds provided to the Village by the Federal government, which are specifically authorized by the Village Council in order to abate such public nuisance, except that in the case of boarding to abate the nuisance as provided in division (a)(4) of this section, the Village may elect to do so by using its own employees and materials. The costs of such abatement shall be recovered from the owner in the following manner:

- (1) The owner shall be billed for the cost of the abatement by mailing such bill to the owner, by United States certified mail with return receipt requested, or by personally serving the owner with a copy of such bill. If service of such bill is not perfected by either of the hereinbefore described methods, then the billing notice shall be published in a newspaper of general circulation in the Village, once a week for two consecutive weeks.
- (2) If the owner shall fail to pay for the cost of such abatement within 30 days after receipt of the bill, or after the publication of the second notice in the aforesaid newspaper, the Village shall cause the cost of the abatement to be either certified to the County Treasurer of Franklin County, Ohio, and levied as a special assessment against the property which was the subject of the abatement action, and recovered in the manner provided for the recovery of special assessments; or shall be collectible, together with any interest thereon, by suit, as other debts of like amount are collectible.
(Ord. 7-2002. Passed 10-14-02.)

1480.12 EMERGENCY ORDERS.

(a) Whenever the Code Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health and safety or the health and safety of any person, he or she may issue an order reciting the existence of such an emergency and requiring that such action as he or she deems necessary be taken to meet the emergency. Notwithstanding the other provisions of this Code, such order shall be effective immediately and complied with immediately.

(b) If necessary to protect the public health and safety or the health and safety of any person where an emergency exists in an occupied building, the administrator shall order that the premises be vacated forthwith and further that they shall not be reoccupied until the conditions causing the emergency to exist have been abated and approved by the Code Enforcement Officer.

(c) In cases where it reasonably appears that there is imminent danger to the public health and safety or the health and safety of any person unless the emergency condition is immediately corrected and if after reasonable attempts to notify the owner it appears that the owner will not or cannot immediately correct the condition, the Code Enforcement Officer may cause the immediate abatement, including building demolition, of such emergency condition. The Code Enforcement Officer shall further cause the cost of such abatement to be charged against the land on which the building exists as a Municipal lien or to be recovered in a civil suit against the owner.

(Ord. 7-2002. Passed 10-14-02.)