

ORDINANCE NO. 2022-10
INTRODUCED BY: Mayor Bodnar

**AN ORDINANCE REPEALING AND REPLACING MAYFIELD VILLAGE CODIFIED
ORDINANCE SECTION 1149.02 RELATING TO CONDITIONAL USE PERMITS**

WHEREAS, it has become necessary to amend Mayfield Village Codified Ordinance Section 1149.02 Use District Exceptions in order to provide additional clarity for the granting of conditional use permits and eliminate temporary and/or special use permits and instead provide only for conditional use permits; and

WHEREAS, pursuant to Article III Section 11 of the Mayfield Village Charter, amended Section 1149.02 was referred to the Village Planning and Zoning Commission for its report and recommendation, and the Commission recommends passage; and

WHEREAS, thereafter, the administration further reviewed for clarification and consistency with Village procedures; and

WHEREAS, the Mayfield Village Council deems it in the best interest of the Village and its residents to repeal and replace Codified Ordinance Section 1149.02 “Use District Exceptions” with a new Section 1149.02 titled “Conditional Use Permits” as is more fully set forth below.

NOW, THEREFORE, BE IT ORDAINED by the Council of Mayfield Village, Cuyahoga County, State of Ohio, that:

SECTION 1. Section 1149.02 of the Village’s Codified Ordinances titled “Use District Exceptions” is hereby repealed in its entirety and new Section 1149.02 titled “Conditional Use Permits” is hereby enacted to read as fully set forth in Exhibit “A” a copy of which is attached hereto and incorporated herein by reference.

SECTION 2. Any sections of the Codified Ordinances in conflict herewith are hereby and herein repealed and amended accordingly. Specifically, all references in the Codified Ordinances to “temporary permit” or “special use permit” shall be repealed and replaced with “conditional use permit”. These provisions include, but may not be limited to: Section 1153.02 Classification of Use, in addition the reference to 1149.02(e) shall be amended to Section 1149.02(h); Section 1157.09 Home Occupations, in addition the reference to 1149.02(c)(3) shall be amended to Section 1149.02 and the reference to 1149.02(e) amended to Section 1149.02(h); Section 1165.03 Permitted Uses, in addition the reference to 1149.02(a)(3) shall be amended to Section 1149.02;

Chapter 1391 Winder Energy Facilities; Section 1309.07 Charge for Professional Services; and 1175.05 Yard Regulations. All other provisions of the Village Codified Ordinances not inconsistent herewith shall remain in full force and effect.

SECTION 3. The Clerk of Council is authorized and directed to forward a certified copy of this Ordinance to the Codifier of Mayfield Village.

SECTION 4. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council and that deliberations of this Council and of its committees, resulting in such formal action, took place in meeting open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 5. This Ordinance shall take effect after adoption and at the earliest time allowed by law.



STEPHEN SCHUTT
Council President

First Reading: June 20, 2022

Second Reading: July 18, 2022

Third Reading: August 15, 2022

PASSED: August 15, 2022



BRENDA T. BODNAR, Mayor

APPROVED AS TO FORM:



DIANE A. CALTA
Director of Law

ATTEST: 

MARY BETSA
Clerk of Council

Exhibit A

1149.02 CONDITIONAL USE PERMITS.

(a) Authority. Conditional use permits may be granted in accordance with the procedures and standards set out in this Section and after approval of the Planning and Zoning Commission and confirmation by resolution duly enacted by Council. Conditional use permits may authorize the development of uses identified in Sections 1153.02(e) (Class U-5 uses) in any Local Business District, uses identified under Section 1153.02(f) (Class U-6 uses) and uses that are not expressly permitted to be located in any other use district of the Zoning Code, and subject to specified conditions.

(b) Purpose. Conditional uses are those uses having some special impact or uniqueness that requires a careful review of the location, design, configuration, and impact to determine, against the fixed standards set forth in Section 1149.02(h), Standards for Conditional Use Permits, the desirability of permitting the establishment of a conditional use on any given site. Conditional uses may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect and such other standards and factors established herein or by the Planning and Zoning Commission.

(c) Parties Entitled To Seek Conditional Use Permits. An application for a conditional use permit may be filed by any person, firm or corporation, or by any office, department, board, bureau, or commission which has a legal interest in the property in the form of an ownership, a lease, or a purchase agreement for the property for which the conditional use permit is requested. If the applicant is a lessor, the written approval, with signature, of the owner shall be required as determined necessary by the Building Commissioner.

(d) Application for a Conditional Use Permit. An application for a conditional use permit shall be filed with the Building Commissioner on an official, prescribed form. The application shall be accompanied by the following plans, data or information, as applicable, unless determined otherwise by the Building Commissioner or designee:

(1) A statement in writing by the applicant and adequate evidence showing that the proposed conditional use will conform to the standards set forth in 1149.02(h), Standards for Conditional Use Permits. Such information should include, at a minimum, a description of the use, days and hours of operation, number of employees, the scope of proposed activities, and any other information requested by the Building Commissioner.

(2) If the use is not listed as a permitted conditional use under Section 1153.02(e) or (f), a statement in writing explaining how it is similar to a use which is listed as a permitted conditional use under the applicable Section of 1153.02(e) or (f).

(3) A site plan of the proposed use identifying the location of all buildings, structures, pavement, open space, points of ingress/egress and parking layout for the subject property; existing buildings, structures and pavement on the abutting properties within one hundred (100) feet of the subject property line; and all property lines, rights-of-way, parcel numbers, easements, scale, north arrow and date shall also be clearly shown.

- (4) The existing use and zoning of land within three hundred (300) feet of the subject property .
- (5) If the subject property is contained in a multi-tenant building, the application should identify the proposed space to be occupied.
- (6) Estimated traffic generation of the proposed use.
- (7) Floor plans indicating the internal use of structures.
- (8) An accurate legal description of the subject property.
- (9) Other information, including a narrative description or product information as may be required by the Planning and Zoning Commission. At the time of application, the applicant has the option to include a landscape plan showing all proposed and existing landscaping, berming, buffering and screening; architectural elevations, and an exterior lighting plan indicating the location of all lighting fixtures. Such application shall be forwarded from the Building Commissioner to the Planning and Zoning Commission for review.

(e) Notice of Request and Public Hearing. No conditional use permit shall be considered by the Planning and Zoning Commission until reasonable advance notice of the request and the date and time of a Public Hearing before the Planning and Zoning Commission has been sent to all property owners within three hundred (300) feet of the subject property and all adjoining and facing property owners. However, failure of service on any individual property owner will not nullify any conditional use permit granted by the Planning and Zoning Commission.

(f) Action by Planning and Zoning Commission. After the conclusion of the public hearing, the Planning and Zoning Commission shall take action on the application for a conditional use permit and transmit its action to Council. The Planning and Zoning Commission may approve, approve with conditions, or deny the application for a conditional use permit. If the Planning and Zoning Commission approves the application, with or without conditions, the Commission shall transmit the application to Council for Council's confirmation. If the Planning and Zoning Commission denies the application, the application process ends. Disapproval of the application for a conditional use permit by the Planning and Zoning Commission shall include a statement of the reasons for the denial.

(g) Action by Council. Within a reasonable time after the receipt of the decision of the Planning and Zoning Commission approving or approving with conditions a conditional use permit, the Council either shall confirm the decision by resolution duly adopted with or without modifications or conditions, refer the application back to the Planning and Zoning Commission for further study, or deny the conditional use permit.

(h) Standards for Conditional Use Permits. The Planning and Zoning Commission or Council shall make a determination on conditional use permit applications based on the following criteria and subject to Section 1149.02(i) below:

(1) Land Use Policy. The proposed use and development will be in keeping with the land use and planning policies established by the Municipality, including any Master Plan then in effect.

(2) Ordinance Purposes. The proposed use and development will be in harmony with the general and specific purposes for which this Zoning Code was enacted and for which the regulations of the district in question were established.

(3) No Nuisance. The proposed use and development will not create any public nuisance by reason of noise, smoke, odors, vibrations, objectionable lights or congestion of traffic.

(4) No Undue Adverse Impact. The proposed use and development will not have a substantial or undue adverse impact upon adjacent property, the character of the neighborhood or area, property values in the immediate vicinity, or the public peace, health, safety, and general welfare.

(5) No Interference with Surrounding Development. The proposed use and development will be constructed, arranged, and operated so as not to excessively interfere with the use and development of neighboring property in accordance with the applicable district regulations.

(6) Adequate Public Facilities. The proposed use and development will have no undue financial burden on the Municipality and be served adequately by the existing level of essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools. If the existing level of public facilities and/or services is or may be inadequate, the applicant must commit to adequately providing such services for itself.

(7) No Traffic Congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets.

(8) No Destruction of Significant Features. The proposed use and development will not result in unnecessary destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

(9) Compliance with Standards. The proposed use and development complies with all additional standards imposed on it by the particular provision(s) of this Section of the Zoning Code authorizing such use and any other applicable provisions of the Zoning Code imposed on the proposed use if the use is permitted in another Use District.

(10) Community Benefit. The proposed use will provide benefit to the community because the proposed use is not currently or commonly available in the Municipality.

(11) Economic Impact. The proposed use has the potential to create a positive economic impact by creating or expanding employment opportunities and increasing tax revenue within the Municipality.

(i) Application of Standards for Conditional Use Permit. While the standards set forth in 1149.02(h) will be used to evaluate specific applications for conditional use permits, the Planning and Zoning Commission is not required to approve any conditional use permit solely based upon meeting any or all of the standards. Approval shall be in the sole and exclusive discretion of the Planning and Zoning Commission and Council.

(j) Conditions on Conditional Use Permits. The Planning and Zoning Commission may impose and Council may confirm or impose additional conditions and limitations concerning the use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this Section of the Zoning Code, upon the premises benefited by a conditional use permit, as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the conditional use or expressly included in such resolution by reference. Violation of any such condition or limitation shall be a violation of the Zoning Code and shall constitute grounds for revocation of the conditional use permit.

(k) Confirmation of Compliance with Conditions. Whenever any conditional use permit granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, notify the Building Commissioner for inspection of compliance. The Building Commissioner shall determine whether the applicant has met the conditions. Thereafter, the Building Commissioner shall inspect the premises every four (4) years for compliance to said specific terms, conditions and safeguards. The Building Commissioner shall provide a report to the Planning and Zoning Commission summarizing the inspections and, if in compliance, recommending renewal of the conditional use permit.

(l) Effect of Issuance of a Conditional Use Permit. The granting of a conditional use permit authorizes the property to be used in the manner proposed but does not alone authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration, or moving of any building or structure without first obtaining any other required permit, including a building permit.

(m) Limitations on Conditional Use Permit. Subject to an extension of time authorized by the Planning and Zoning Commission, no conditional use permit shall be valid for a period longer than one (1) year unless a building permit is issued and construction is actually begun within that period, and is thereafter diligently pursued to completion, or the approved use is commenced within that period. Thereafter, a conditional use permit shall be valid for a period of four (4) years and shall expire on December 31st of the fourth year following the year in which the permit was granted. The Building Commissioner shall provide a report to the Planning and Zoning Commission summarizing the inspections conducted under 1149.02(k). Thereafter, the Planning and Zoning Commission shall renew the conditional use permit if the permit holder has complied with all terms and conditions established by the Planning and Zoning Commission in granting the conditional use permit.

(n) Modifications to Conditional Uses. Any modification or intensification of a conditional use that alters the essential character or operation of the use in a way not intended at the time the conditional use permit was granted, as evidenced by the record or language of the resolution, shall require a new conditional use permit. The property owner/operator or their authorized representative shall apply for such conditional use permit prior to any modification of the use of property. The Building Commissioner shall determine whether the proposed modification or intensification represents an alteration in the essential character of the original conditional use as approved. The operator of the conditional use shall provide the Building Commissioner with all the necessary information related to the conditional use to render this determination. If the Building Commissioner determines that the proposed modification or intensification will not alter the essential character or operation of the conditional use, a new conditional use permit shall not be required.

(o) Revocation of Conditional Use Permit. A conditional use permit may be revoked by the Building Commissioner if the established conditions for approval are violated. Any party who is the holder of a conditional use permit that has been revoked pursuant to this Section, may appeal the decision of the Building Commissioner to the Planning and Zoning Commission within ten (10) days of receiving notice of the revocation of the conditional use permit.