

**ORDINANCE NO. 2022-10**

**AN ORDINANCE  
AMENDING SECTION 1141.15 OF THE CODIFIED  
ORDINANCES OF WAITE HILL VILLAGE TO ENACT  
NEW REGULATIONS APPLICABLE TO ACCESSORY  
USES AND STRUCTURES TO PERMIT AND REGULATE  
POWER CONVERSION FACILITIES.**

WHEREAS, the Zoning Code of the Village of Waite Hill does not currently permit facilities for the conversion of wind or solar energy into electrical energy; and

WHEREAS, the Administration and the Planning and Zoning Commission have been approached by representatives of the wind and solar power industries to determine what regulations exist in the Village; and

WHEREAS, the Administration and the Planning and Zoning Commission have discussed the issue and have serious concerns regarding the visual impact of solar panels and windmills on the “scenic beauty, the ecology and the rural character of the Village”, which are identified in the Preamble to the Charter of the Village of Waite Hill

WHEREAS, the Village of Waite Hill has the authority under Article XVIII, Section 3 of the Ohio Constitution to enact reasonable regulations regarding accessory uses and structures, to permit the conversion of wind or solar energy use in circumstances where they are accessory to an accessory residential use or building (e.g., to heat a swimming pool or put lights in an accessory building) and the facilities cannot be seen from a neighboring property or public right of way; and

WHEREAS, the Planning and Zoning Commission and Council have each held public hearings, pursuant to notice given, in accordance with Chapter 1131 of the Codified Ordinances of the Village of Waite Hill.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WAITE HILL, COUNTY OF LAKE, STATE OF OHIO:**

SECTION 1. That existing Schedule 1141.15 of the Codified Ordinances of the Village of Waite Hill is hereby amended to provide, in its entirety as follows:

**“SCHEDULE 1141.15  
ACCESSORY USES AND STRUCTURES**

Accessory uses, buildings, and structures permitted in residential districts and associated with a one-family detached dwelling, shall conform to the location, coverage, area, and maintenance standards contained in this Section and this Code. No accessory building or use shall be established on a lot unless a principal building or use has first been established on the lot in conformance with all applicable provisions of this Zoning Code. No accessory building shall be used, enlarged, restored or maintained in such a manner as to become the main or principal use, nor shall such use be designated as an accessory use for the purpose of avoiding the intent and purpose of any provision of this Zoning Code.

(a) Location Requirements for Accessory Uses. An accessory building or use permitted in a residential district shall be located as set forth in Schedule 1141.15. However, an accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in this Zoning Code.

(b) Schedule 1141.15 Permitted Accessory Structures In Front, Side And Rear Yards:

<b>Schedule 1141.15</b>				
Permitted Accessory Structures in Front, Side and Rear Yards				
Use	Yard Permitted	Minimum Setback From Lot Line		
		Front	Side	Rear
(1) Detached accessory buildings, including garages, barns and stables, coops, and sheds	Rear, Side	NP	25 feet <sup>(a)</sup> 50 feet <sup>(b)</sup>	50 feet
(2) Driveways	Front, corner side, side, rear	NA	10 feet <sup>(d)</sup>	10 feet <sup>(d)</sup>
(3) Fences, walls	Front, corner side, side, rear	0 ft	0 ft.	0 ft.
(4) Private swimming pools <sup>(a)</sup>	Rear	NP	See also Section <u>1141.15 (f)</u> <sup>(c)</sup>	
(5) Other accessory structures such as but not limited to tennis courts, recreational equipment, etc.	Rear	NP	50 feet	50 feet
(6) Outdoor storage of recreation vehicles/equipment.	Rear	See also Section <u>1141.15 (i)</u>		
(7) Power Conversion Facilities <sup>(e)</sup>	Front, corner side, side, rear	N/A	N/A	
<p><u>Notes to Schedule 1141.15:</u></p> <p>(a) Applicable only to the R-3 Single-Family Residence District.</p> <p>(b) Applicable only to the R-10 Single-Family Residence District.</p> <p>(c) See also Section <u>1141.15(f)</u>.</p> <p>(d) During the site plan review process, an applicant may request that the Planning and Zoning Commission consider an exception to the setback requirement for driveways when site conditions, such as topography; existing buildings; existing trees/landscaping; or similar factors, necessitate a lesser driveway setback.</p> <p>(e) Power Conversion Facilities, as defined in Section 1141.15(k).</p> <p>NA Not Applicable NP Not Permitted</p>				

(c) Accessory Structures and Buildings. The total of all accessory structures and accessory buildings, excluding corrals and detached garages, shall not exceed one percent (1%) of the lot area.

(d) Detached Garages. Accessory detached garages shall be limited to 200 square feet for each 15,000 square feet of lot area, but not exceeding a total of 1200 square feet; provided, however, that on farms under cultivation with lots of five (5) acres or more, additional farm vehicles and equipment may be housed as may be necessary.

(e) Additional Regulations for Parking Areas. Accessory off-street parking spaces shall be provided in compliance with the parking requirements set forth in Chapter 1151, Off-Street Parking Regulations, which shall be located on the same lot as the dwelling served.

(f) Private Swimming Pools. A private swimming pool, not including farm ponds; retention basins; and lakes, shall be any pool or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1.5) feet. No such swimming pool, exclusive of portable swimming pools with a diameter less than twelve (12) feet or with an area of less than 100 square feet, shall be allowed in any R-3 or R-10 District, except as an accessory use and unless it complies with the following conditions and requirements:

(1) Private swimming pools shall be located on the same zoning lot with the principle use to which it is an accessory use.

(2) It shall not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than twenty-five (25) feet to any property line of the property and shall be a minimum of ten (10) feet from the principal building;

(3) The pool is intended and is to be used solely by the occupants and guests of the principal use of the property on which it is located;

(4) Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties;

(5) Whenever light is used to illuminate such pool, such lights shall be installed and shielded in such a manner as to direct light onto the pool only and not to reflect light onto any abutting residential property.

(6) The swimming pool shall comply with the locational and coverage requirements set forth in this Chapter.

(7) The construction and operation of a pool shall meet all other applicable Village regulations.

(g) Fences and Walls. The purpose of this subsection is to affirm the Village policy encouraging the preservation and conservation of open space and to establish regulations controlling the location, installation, maintenance and standards for fences in order that a property owner may construct and maintain a fence which secures privacy, offers attractive landscape design and/or affords security while assuring that such fences are located and constructed so as to respect the rights and enjoyment of neighboring property owners, preserving the integrity of scenic zones, maintaining the appearance of the community, and securing the overall health, safety and public welfare of the residents of the Village.

(1) Scope. This subsection 1141.15(g) sets forth regulations pertaining to the location, installation, maintenance and standards for new fences in all residential zoning districts in the Village.

A. Any fence erected prior to the date of the adoption of this subsection 1141.15(g) which does not comply with these regulations shall be nonconforming. However, such nonconformance shall not cause an order for removal. The Village may order immediate remedial measures to alleviate or prevent any hazardous conditions when the Planning and Zoning Commission determines that such conditions, whether conforming or nonconforming, jeopardize the health and safety of residents, occupants, wildlife or domestic animals.

B. Trellises, living fences, hedges and other living materials shall not be deemed to constitute fences within the meaning of this subsection 1141.15(g).

C. All fences shall require review and approval in accordance with Chapter 1127, Site Plan Review Procedures.

(2) Definitions. As used in this subsection 1141.15(g), certain terms are defined as follows:

A. "Fence" means any structure composed of wood, iron, steel, masonry, stone or any other materials which are erected in such a manner and in such a location so as to in whole or in part enclose, secure, provide privacy, decorate, define the scope or limits of, or otherwise enhance all or an identifiable part of any premises.

B. "Fence open area" means the percentage of the surface area of a fence which permits passage of light and air. In computing the "fence open area" gates and/or gate opening areas shall not be considered. No area higher than the highest horizontal fence part nor lower than the lowest horizontal fence part shall be considered as contributing to or constituting a part of the surface area of a fence when computing the "fence open area" required by this Chapter.

C. "Surface area" means the area between the highest horizontal fence part and the lowest horizontal fence part, excluding gates and/or gate opening areas.

D. "Ornamental fence" means a fence constructed for its beauty or decorative effect and when viewed at a right angle, has not less than seventy-five percent (75%) of the area of its vertical plane, the area within a rectangular outline enclosing all parts of the fence in its plane, as "fence open area." Ornamental fences include:

(i) "Rail and post" or "split-rail fence" means a fence constructed of narrow, whole or split, wooden timbers placed horizontally between upright supporting posts; and,

(ii) Wrought iron fences, decorative steel fences, and aluminum fences.

(3) Nonconforming Fences; Plot Plan.

A. Site plan review shall not be required of a person repairing, replacing or otherwise altering a conforming or nonconforming fence, provided however, that if a nonconforming fence is in such condition that more than one-half of such nonconforming fence is to be repaired, replaced or otherwise altered, site plan review shall be required in accordance with Chapter 1127, Site Plan Review Procedures.

B. In lieu of the submission requirements in Section 1127.17 (c), the application shall be accompanied by a plot plan, unless waived by the Zoning Administrator, drawn to scale of not less than one inch to one hundred (100) feet showing the following:

i. Location of all structures upon the premises;

ii. The location of the proposed fence;

iii. All property lines of the subject premises on which a fence is proposed to be constructed, erected, altered or rebuilt;

iv. The public street, road, highway, lane or private right of way which such premises abut;

v. Plans and specifications of the proposed fence;

vi. Material to be used in the proposed fence;

vii. Height of the proposed fence from established grade;

viii. A computation of the "fence open area" of the proposed fence; and,

ix. A proposed scheduled completion date.

(4) Fences Permitted.

A. Visible from a Neighboring Residence or from a Public or Shared Right of Way. Fences which are visible from any neighboring residence or from a public or shared right of way are permitted only when they are:

i. "Split rail" or "rail and post" fences which do not exceed four (4) feet in height above established grade which contain seventy-five percent (75%) or greater "fence open area," are constructed of natural wood which is either untreated or treated in a natural wood finish, and whose vertical posts are separated by not less than four feet in distance from one another; or,

ii. "Decorative entry features" constructed of authentic stucco on masonry, stone, or brick, which do not exceed six (6) feet in height above established grade and twenty (20) feet in length at corners and entrances for aesthetic reasons; or,

iii. Ornamental fences which do not exceed four (4) feet in height and whose vertical posts are separated by not less than four (4) feet in distance from one another; or,

iv. Fences of construction and/or materials not expressly prohibited by this subsection 1141.15(g) and which the Village Architectural Board of Review shall expressly determine to be harmonious and compatible with those objectives expressed in Section 7.34 of the Village Charter, which section is incorporated by reference into this section as if fully rewritten herein, and this subsection 1151.15(g). Harmonious and compatible fencing materials may include finished wood, iron, metal, or synthetic look-alike products provided such are approved by the Village Architectural Board of Review as provided for in this subsection 1141.15(g).

B. Not Visible from any Neighboring Residence or From a Public or Shared Right of Way. Fences are permitted in areas not visible from any neighboring residence or from a public or shared right of way if they are:

i. Fences authorized in subsection A. hereof; or,

ii. Fences of any materials or construction other than chain link, barbed wire, or stockade which are no higher than six (6) feet above established grade.

C. Chain Link Enclosures for Tennis Courts or other Similar Recreation Areas, Swimming Pools, or Pet Runs. Metal chain link fences are permitted if they have seventy-five percent (75%) or greater "fence open area" and if they:

i. Do not exceed ten (10) feet in height and enclose a tennis court or other similar recreational area; or

ii. Do not exceed five (5) feet in height and enclose a swimming pool; or

iii. Do not exceed six (6) feet in height and enclose a pet run.

A landscape plan to screen such enclosures may be required when the plot plan is reviewed in accordance with Chapter 1127, Site Plan Review Procedures.

D. The provisions of subsections A. and B. hereof shall not apply to fence enclosures authorized by this subsection C.

(5) Fences Materials.

A. No person shall construct or maintain a stockade or barbed wire fence within the Village.

B. Unless permitted by subsection 1141.15(g)(4)C, no person shall construct or maintain a chain link fence within the Village.

(6) Temporary Fences. The provisions of this subsection shall not apply to any temporary fence enclosing a permitted construction site or any temporary snow fence erected to prevent the drifting of snow provided that such temporary snow fence is erected not earlier than October 15 and is removed not later than April 15.

(7) General Conditions.

A. All fences shall be maintained in good repair and condition by the owner and/or occupant, and shall be structurally sound and attractively finished at all times. Any ground between the fence and property line shall be well maintained.

B. All fences shall be designed, constructed and finished so that the supporting members of such fence face the property of the owner of the fence.

C. Any fence in a side yard which is parallel to and plainly visible from the public or private right of way shall be reasonably screened from the street with appropriate landscaping such as, but not limited to:



i. One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. Each tree at the time of installation shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet;

ii. One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet of fence length or fraction thereof, not including gates or other fence openings; and,

iii. The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.

iv. During site plan review, the Architectural Board of Review may require landscaping beyond the requirements of this subsection 1141.15 (g)(7)C. when necessary due to the amount of "fence open area." The Architectural Board of Review may also waive the screening required by this subsection if existing, natural landscaping provides sufficient screening to meet the intent of this subsection 1141.15 (g).

D. No mesh wire fence shall be constructed unless the unfinished and sharp edges on the fence are pointing toward the ground. The top edges of all metal fences constructed, erected or maintained shall be of smooth finish with no protruding sharp edges.

E. In order for a fence to be constructed adjacent to, or in proximity with a property line, the property owner proposing the fence shall construct the fence so that it can be easily dismantled from its owner's side for the purpose of maintaining it entirely within the owner's property.

F. At all street intersections, the intersection of private driveways and public rights of way, and the intersections of two (2) driveways, and ten (10) feet in any direction therefrom, there shall be no fence or dense vegetation, which in the judgment of the Chief of Police, may impede the clear vision between vehicles and pedestrians at such intersections.

(8) Inspection; Appeal to Board of Zoning Appeals.

A. Inspection. It shall be the duty of each property owner to determine property lines and to ascertain that the fence thus constructed does not deviate from the plans as approved by the Village, and that such fence does not encroach upon another lot or parcel of land. The Village shall furnish such inspection as is deemed necessary to determine that the fence is constructed in accordance with the plan submitted for site plan review, provided however, that the issuance of the zoning certificate by the Village shall not be construed to mean that the Village has determined that the fence is not encroaching upon another lot, nor shall it relieve the property owner of any duty imposed upon him by this or any other ordinance, code and/or the general laws of the State of Ohio.

B. Appeals to Board of Zoning Appeals. Any party adversely affected, including the Village, may take a written appeal to the Board of Zoning Appeals in accordance with Chapter 1133, Appeals and Variances. The Board of Zoning Appeals may permit variances from these regulations in cases where exceptional physical conditions exist, or the established regulations or standards of this section are inappropriate or inapplicable, and the requested variances will not adversely affect the purposes of this subsection 1141.15(g).

(h) Additional Regulations for Vehicles.

(1) The repainting, rebuilding, overhauling, or dismantling of a vehicle or the storage of tires, motor, body or other parts in an open yard is prohibited on a residential lot.

(2) The overnight parking or the outdoor storage of commercial motor vehicles, as defined in Section 341.01, is prohibited.

(3) The parking or storing of vehicles shall not be permitted in the established lawn areas of residential lots, except as otherwise permitted in this Code.

(i) Outdoor Storage of Recreation Vehicles/Equipment. The outside storage and parking of recreational vehicle/equipment shall be permitted as an accessory use subject to the following conditions and limitations:

(1) They shall not be connected to electricity, water, gas, or sanitary sewer facilities, and at no time shall this vehicle/equipment be used for living or housekeeping purposes.

(2) If the recreational vehicle/equipment is parked or stored outside, it shall be parked in the rear yard; and it shall not be stored in any side setback. Such recreational vehicle/equipment shall be screened from adjacent property and the public right-of-way in accordance with subsection 1141.15 (g)(7)C.

(3) Notwithstanding the provisions of this subsection, recreational vehicle/equipment may be parked anywhere on the premises for loading or unloading purposes, for a period of not more than 48 hours.

(4) The area surrounding the parked or stored recreational vehicle/equipment shall be maintained pursuant to all applicable Village ordinances, codes, standards, and regulations.

(5) All recreational vehicle/equipment shall be kept operable and in good repair and carry a current year's license or registration.

(6) The impervious area used for the outside storage and parking of recreational vehicle/equipment shall be included in the computation of the maximum lot coverage.

(j) Home Occupation. The purpose of this section is to set forth regulations, which control the establishment and operation of home occupations. The intent of these regulations is to control the non-residential use of a residential dwelling unit so that the non-residential use is limited to an accessory use, and shall not in any way adversely affect the uses permitted in the residence district of which they are a part. Compliance with these regulations should result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit.

Home occupations shall be a permitted accessory use when conducted in compliance with the following standards. When not in compliance with the following standards, such home occupation shall be declared a nuisance pursuant to the Codified Ordinances of the Village of Waite Hill.

(1) Home occupations shall be clearly incidental and secondary in importance to the use of the dwelling for residential purposes.

(2) No more than one (1) person other than members of the family residing on the premises shall be engaged in such home occupation;

(3) The occupation shall be conducted wholly within a principal or accessory building, and the space used for the home occupation shall not occupy more than twenty-five percent (25%) of the net floor area of all buildings on the zoning lot.

(4) No home occupation shall be carried on that will substantially change the residential character of the dwelling or the accessory building.

(5) All storage of materials, goods, supplies or equipment related to the operation of a home occupation shall be inside the principal or accessory building.

(6) The number of automobiles or trucks attracted to the premise shall not be greater than that which is normally associated with residential uses.

(7) The noise, fumes, and vibrations generated by a home occupation shall not be greater than the expected levels or amounts typical of a residential area, and such noise level, fumes or vibrations shall not create a nuisance in the neighborhood.

(8) No wholesale, jobbing, or retail business shall be permitted unless it is conducted entirely by mail, telephone, or electronically and does not involve the receipt, delivery, sale or storage of merchandise on or from the premises.

(k) Power Conversion Facilities. "Power Conversion Facilities" means equipment that is designed for the conversion of wind or solar energy and are permitted as an accessory use to the residential use of property, subject to the regulations set forth in this section.

(1) No Power Conversion Facility shall be visible from any neighboring property or from any public right of way.

(2) Power Conversion Facilities may only generate sufficient power for an accessory use or for use on an accessory building or structure.

(3) No residence may be designed or constructed to be powered exclusively by Power Conversion Facilities.

(4) These regulations do not apply to geothermal energy conversion facilities, which convert geothermal energy into energy that is usable for residential use, which are permitted if they cannot be observed from any neighboring property or public right of way.

(5) These regulations do not apply to facilities that generate electrical energy from the use of natural gas, propane, or similar energy sources, which facilities permitted and subject to approval of the Planning and Zoning Commission as to location and screening of such facilities to minimize any negative impacts on neighboring residences."

SECTION 2. That existing Section 1141.15, and any ordinance or any part of any ordinance that conflicts with this ordinance, is repealed to the extent of the conflict.

SECTION 3. That the actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_, 2022

\_\_\_\_\_  
Council President

Submitted to the Acting Mayor  
for his approval on this

\_\_\_\_\_ day of \_\_\_\_\_, 2022

Approved by the Mayor

ATTEST:

\_\_\_\_\_, 2022

\_\_\_\_\_  
Clerk-Treasurer

\_\_\_\_\_  
Mayor