



# **VILLAGE OF YELLOW SPRINGS ZONING ORDINANCE**

Adopted: September 16, 2013

# Village of Yellow Springs Zoning Ordinance

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**1240.01 Title**

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This code and all its provisions, codified as Title Four, Zoning, of Part Twelve, the Planning and Zoning Code, shall be known and may be cited as “The Zoning Code of the Village of Yellow Springs, Ohio;” or by its shorter titles, “The Yellow Springs Zoning Code” or “Zoning Code.”

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**1240.02 Purpose**

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This code shall have the purposes prescribed in Ohio Revised Codes Chapter 713 and is enacted for the following additional purposes:

- (a) To promote the public health, safety, convenience, comfort, prosperity and general welfare;
- (b) to conserve and protect property and owner investment;
- (c) to promote the most appropriate use of land;
- (d) to guide the density of population;
- (e) to manage and support efficient travel modes;
- (f) to provide a method of administration and to prescribe penalties for violations of provisions of this code; and
- (g) to support the Village Comprehensive Plan and its key principles, including:
  - (1) make land use provisions and decisions that make possible the restoration, maintenance and retention of a population, employment and economic base that is capable of sustaining the community;
  - (2) make provisions for a range of housing opportunities, costs and choices that provide safe, quality housing for current and potential residents of all income levels, paying particular attention to modest cost housing to ensure maintenance of income diversity in our town;
  - (3) support land use development in which residents can live, walk and bicycle to work, to learn, to shop, to worship and to play;
  - (4) encourage collaborative land use development that honors both landowners’ rights to a fair return on the value of their land and the community’s desire to determine how and where it wants to grow. The Comprehensive Plan should be the guideline used by policymakers when making decisions on land use and zoning matters.
  - (5) promote compatible mixed-use land use adjacencies that foster synergies (not disharmonies) among residential, commercial, retail, educational and industrial uses.
  - (6) preserve open space, naturally occurring topographic features and vegetation, critical environmental areas and historic buildings and land uses.
  - (7) promote a transportation infrastructure that supports safety, compatibility and accessibility for pedestrian, bicycle and motorized vehicles;
  - (8) direct new residential development, should it occur, to areas either already served by existing infrastructure – water, sanitary sewer, electric and streets – and/or to yet undeveloped areas within current Village borders where compatible

land use adjacencies already exist. New development shall be encouraged within the Village through infill and greater density and it shall not be considered outside the Urban Service Area. The Village will work with the Township to balance controlled development with goals for preservation of the Jacoby Greenbelt; and

- (9) promote new retail, commercial and industrial development in areas in the community where these land uses already exist (are already zoned for) and/or to yet undeveloped areas within current Village borders. New development shall be encouraged within the Village through infill and greater density and it shall not be considered outside the Urban Service Area. The Village will work with the Township to balance controlled development with goals of preservation of the Jacoby Greenbelt.

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### **1240.03 Scope**

The provisions of this code shall apply to all lands within the municipal boundaries of the Village of Yellow Springs, including all lands annexed to the Village after the effective date of this code.

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### **1240.04 Effect of Other Regulations**

The regulations of this code shall be in addition to any other regulations in effect in the Village. All building, subdividing, and uses within any district shall satisfy all building, planning, platting, zoning, and any other related regulations.

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### **1240.05 Relationship to Other Codes, Ordinances or Agreements**

This code does not repeal or annul any code, ordinance, regulation, permit, easement, covenant, or private agreement previously adopted, issued, or entered into and not in conflict with the provisions of this code. Where the regulations of this code are more restrictive or impose higher standards than other codes, ordinances, regulations, permits, easements, covenants, or private agreements, the requirements of this code shall govern.

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### **1240.06 Interpretation**

The provisions of this code shall be interpreted and applied so as to be the minimum requirements necessary to promote or advance the public health, safety, security and general welfare of the Village.

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### **1240.07 Rules Applying to the Text**

- (a) The words, terms and phrases used in this code shall have the meanings assigned to them in Chapter 1284, except where the context clearly indicates a different meaning.
- (b) Rules of Construction: The following rules of construction apply to this code:
  - (1) The particular shall control the general and the use of a general term shall not be taken to have the same meaning as another specific term. For example, a “dry cleaning retail establishment” shall not be interpreted to be the same as a “retail business supplying commodities on the premises,” if each term is listed as a separate and distinct use.
  - (2) In case of any difference of meaning or implication between the text of this code and any caption or illustration, the text shall control.

- (3) A building or structure includes any and all of its parts.
  - (4) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
  - (5) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
  - (6) The word "person" includes any individual, corporation, partnership, incorporated association, limited liability company or any other similar entity.
  - (7) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions "and," "or" or "either . . . or," the conjunction shall be interpreted as follows:
    - A. "And" indicates that all of the connected items, conditions, provisions or events apply.
    - B. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
    - C. "Either . . . or" indicates that the connected items, conditions, provisions or events apply singly but not in combination.
- (c) Terms not defined in this code shall have the meaning customarily assigned to them.

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**1240.08 Severability**

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If a provision of this zoning code is found to be invalid by any court of competent jurisdiction, that invalidation shall not affect any other provision of this code unless the other provision is also found to be invalid.



# 1242

## Chapter 1242 Zoning Districts and Map

### 1242.01 Districts Established

The Village of Yellow Springs is divided into 10 zoning districts as listed in *Table 1242.01*.

Table 1243.01 Zoning Districts		
Symbol	District Name	Regulated In
Conservation and Agricultural Districts		
C	Conservation	Chapter 1244
E-I	Educational Institution	Chapter 1246
Residential Districts		
R-A	Low Density Residential	Chapter 1248
R-B	Moderate Density Residential	
R-C	High Density Residential	
Business Districts		
B-1	Central Business	Chapter 1250
B-2	General Business	
Industrial Districts		
I-1	Industrial	Chapter 1252
I-2	Industrial	
Planned Districts		
PUD	Planned Unit Development	Chapter 1254

### 1242.02 Official Zoning Map

- The boundaries of the zoning districts are established as shown on the map entitled, "Village of Yellow Springs Official Zoning District Map" which accompanies and is made a part of this code.
- The Official Zoning District Map shall be maintained and kept on file by the zoning administrator.
- The Village Council may, at its discretion or upon formal application, amend the zoning map, in accordance with the amendment procedures of *Chapter 1280*.

### 1242.03 District Boundaries Interpreted

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the zoning map, the following rules shall apply:

- When the exact boundaries of a district are uncertain, they shall be determined by use of the scale on the zoning map.
- Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow those centerlines.

- (c) Boundaries indicated as approximately following platted lot lines shall be construed as following those lot lines.
- (d) Boundaries indicated as following shorelines shall be construed to follow the shoreline. In the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the center line of streams, rivers or other bodies of water shall be construed to follow the centerline. Any use of structures extending into or over a water body shall be subject to the same zoning restrictions as the adjoining land.
- (e) When a right-of-way is vacated, the districts adjoining each side are respectively extended to the center of the area so vacated.
- (f) If the rules above are not sufficient to resolve the issue, the Planning Commission shall make the determination by resolution.

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**1242.04 Annexed Land**

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Where land is annexed into the Village, it shall be automatically zoned R-A upon annexation until the area is rezoned, as provided for in Chapter 1280..

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**1242.05 Lots Divided by Zoning Line**

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Where a zoning district boundary line divides a lot, the entire lot shall be considered to be wholly within the more restrictive zoning district.

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**1242.06 Uses Not Listed**

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- (a) A use that is not listed, either by right or by conditional approval, in a zoning district shall not be permitted in that district and shall only be permitted in a district where it is specifically listed as either a use by right or by conditional approval.
- (b) If a proposed use of land or building is not specified by this code in any district, the Village manager or designee shall determine if the use is similar to a permitted or conditional land use authorized in the district in which the land or building is located. If the use is found to be similar, it may be established in accordance with the requirements and procedures established in the code for the similar use. The Village manager or designee shall notify the Planning Commission of this action, who shall then determine if the code should be amended to specifically include the use.
- (c) Alternatively, the Village manager or designee may refer the determination to the Planning Commission in the first instance.
- (d) The determination by the Village manager or designee, or the Planning Commission, may be appealed to the Board of Zoning Appeals; provided, the appeal may only be taken by the affected property owner or the owner's agent

# 1244

## Chapter 1244 Conservation District

### 1244.01 Purpose

**"C," Conservation District.** The C District is established for the protection of flora and fauna in significant natural areas of the Village where protection of the sensitive and valued resources are a high priority for the community. Because of natural topography, flood plain limitations and various institutional restrictions, these lands are generally not suited or appropriate for agriculture or development.

### 1244.02 Schedule of Uses

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this code. Land and/or buildings in the districts indicated at the top of *Table 1244.02* may be used for the purposes denoted by the following abbreviations:

- (a) **Permitted Use (P).** Land and/or buildings in this district may be used by right.
- (b) **Conditional Use (C).** Land and/or buildings in this district may be permitted only if conditional use approval is granted, upon a finding that the general requirements of *Chapter 1262* are met.
- (c) **Specific Conditions.** Indicates requirements or conditions, as listed in *Chapter 1262*, are applicable to specific uses.

Table 1244.02 Schedule of Uses: Conservation District		
Use		Specific Conditions
<b>Agricultural and Animal-Related Uses</b>		
Community gardens	P	
Riding stables	C	
<b>Public/Quasi-public</b>		
Cemeteries (green burial method only)	C	
<b>Recreational and Educational</b>		
Forest and wildlife preserves	P	
Interpretive Centers	P	
Public parks/playgrounds/recreation areas	C	
<b>Other</b>		
Accessory buildings, structures and uses	P	1260.04
Governmental offices, buildings and facilities	P	
Wireless communication facilities and towers	C	1262.08(g)(1)
Uses similar to other uses permitted in this district and consistent with the purpose of the district, as determined in accordance with Section 1242.06.	C	1242.06

### 1244.03 Spatial Requirements

- (a) All lots and buildings shall meet the minimum area and width requirements of *Table 1244.03*. New lots shall not be created, except in conformance with these requirements.

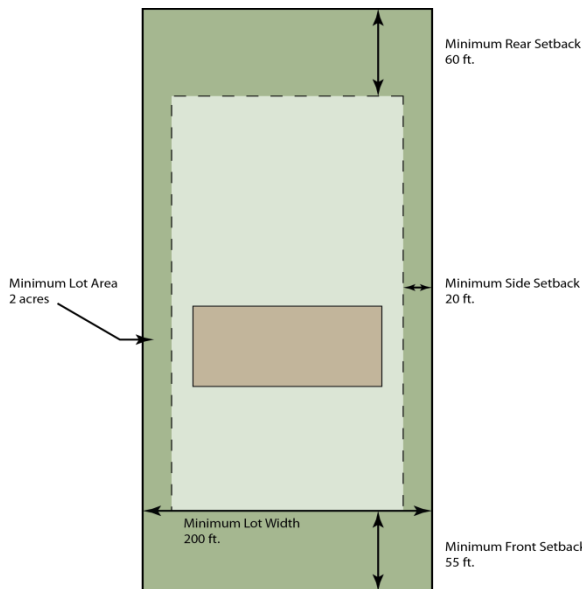
**Table 1244.03 Lot and Width Requirements, Conservation District**

Zoning District	Minimum Lot Area	Minimum Lot Width (ft.)
<b>C, Conservation</b>	<b>2 acres</b>	<b>200</b>

(b) All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in *Table 1244.03a*.

**Table 1244.03a Dimensional Requirements, Conservation District**

Zoning District	Maximum Building Height (ft./stories)	Minimum Yard Setbacks (ft.) <sup>1</sup>				Rear	Lot Coverage (%)
		Front		Side			
		Prking.	Bldg.	Total	Least		
<b>C</b>	<b>35/2.5</b>	<b>55</b>	<b>55</b>	<b>50</b>	<b>20</b>	<b>60</b>	<b>30</b>



**1244.04 Site Development Regulations**

In addition to the requirements of this article, all development in the Conservation District shall meet the applicable requirements as listed elsewhere in this code:

- (a) General Provisions, see *Chapter 1260*
- (b) Conditional Use Requirements, see *Chapter 1262*
- (c) Parking and Loading, see *Chapter 1264*
- (d) Signs, see *Chapter 1266*
- (e) Site Plan Review Requirements, see *Chapter 1268*
- (f) Landscaping Requirements, see *Chapter 1270*
- (g) Overlay Zone Requirements, see *Chapter 1256*

<sup>1</sup> Average established setback shall apply, where applicable, in accordance with *Section 1260.02(a)*.

# 1246

## Chapter 1246 Educational Institution District

### 1246.01 Purpose

The Educational Institution (E-I) District is established to support the needs of the post-secondary educational institutions within the Village. It accommodates the integration of classroom, administrative, residential and support facilities within a cohesive campus setting while acknowledging that the scale and location of the development must respect its surroundings which are often residential neighborhoods.

### 1246.02 Schedule of Uses

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this code. Land and/or buildings in the districts indicated at the top of *Table 1246.02* may be used for the purposes denoted by the following abbreviations:

- (a) **Permitted Use (P).** Land and/or buildings in this district may be used by right.
- (b) **Conditional Use (C).** Land and/or buildings in this district may be permitted only if conditional use approval is granted, upon a finding that the general requirements of *Chapter 1262* are met.
- (c) **Specific Conditions.** Indicates requirements or conditions, as listed in *Chapter 1262*, are applicable to specific uses.

Table 1246.02 Schedule of Uses: Educational Institution District		
Use	E-I	Specific Conditions
<b>Accessory Uses</b>		
Accessory buildings, structures and uses	P	1260.04
Cafeteria facilities located within a principal use	P	
Child care facilities located within a principal use	P	
Community gardens	P	
Day care – group	C	
Outdoor patio seating in conjunction with a permitted restaurant	P	
Outdoor storage related to a principal use	C	
<b>Educational</b>		
Auditorium buildings	P	
Classroom buildings	P	
Commercial schools and studios including art, dance, martial arts, and music	P	
<b>Office/Research</b>		
Administrative offices	P	
Banks, credit unions and similar financial institutions, excluding drive in and drive thru facilities	P	

**Table 1246.02 Schedule of Uses: Educational Institution District**

<b>Use</b>	<b>E-I</b>	<b>Specific Conditions</b>
Medical and dental offices and clinics	<b>C</b>	
Offices for executive, administrative, professional, real estate, accounting and similar professional activities	<b>P</b>	
Research, development and testing laboratories and facilities	<b>P</b>	
<b>Public/Quasi-public</b>		
Churches and customary related uses	<b>P</b>	1262.08(c)(1)
Government offices, buildings and facilities	<b>P</b>	
Libraries	<b>P</b>	
<b>Recreation</b>		
Art galleries, museums and similar cultural facilities	<b>P</b>	
Assembly and performance halls	<b>P</b>	
Ball fields	<b>C</b>	
Community centers and senior centers	<b>P</b>	
Cultural buildings	<b>P</b>	
Field house	<b>C</b>	
Forest and wildlife preserves	<b>P</b>	
Golf courses and country clubs	<b>C</b>	
Health and fitness clubs	<b>P</b>	
Indoor commercial recreation such as theaters, bowling lanes and skating rinks	<b>C</b>	
Interpretive center	<b>P</b>	
Natorium	<b>P</b>	
Public parks/playgrounds/recreation areas	<b>P</b>	
Riding stables	<b>C</b>	
Stadium	<b>C</b>	
<b>Residential</b>		
Bed & breakfast	<b>C</b>	1262.08(e)(2)
Caretaker residence	<b>P</b>	
Continuing care retirement community	<b>C</b>	
Dormitories	<b>P</b>	
Dwellings, Attached single family	<b>C</b>	
Dwellings, Multiple-family	<b>C</b>	
Dwellings, Single family detached	<b>C</b>	
Dwellings, Two family	<b>C</b>	
Short-term rentals	<b>C</b>	1262.08(e)(6)
<b>Other</b>		
Agribusiness	<b>C</b>	
Bars, taverns, clubs and restaurants serving alcoholic beverages	<b>C</b>	
Brew pubs and similar establishments	<b>C</b>	
Day care, nursery schools and child care establishments	<b>P</b>	
Sustainable farming, including raising animals	<b>C</b>	
Farmers market	<b>P</b>	
Food processing plants	<b>C</b>	

**Table 1246.02 Schedule of Uses: Educational Institution District**

<b>Use</b>	<b>E-I</b>	<b>Specific Conditions</b>
General retail catering to the needs of the community, but less than 10,000 square feet of UFA	<b>C</b>	
Greenhouse/nursery (not including retail sales)	<b>P</b>	
Heliports and helipads	<b>C</b>	
Hotels and motels	<b>C</b>	
Mobile vending (food trucks)	<b>C</b>	1262.08(d)(1)
Outdoor market or covered bazaar	<b>P</b>	
Printing, photocopying and publishing services	<b>P</b>	
Radio, television and recording studios	<b>P</b>	
Recycling collection and/or processing facility (non-hazardous)	<b>C</b>	
Restaurants, excluding drive-in or drive-thru facilities	<b>C</b>	
Solar facilities (non-residential)	<b>C</b>	
Storage of hazardous materials	<b>C</b>	1262.08(b)(1)
Wind energy conversion systems (single accessory)	<b>C</b>	
Wind energy conversion systems (commercial)	<b>C</b>	
Wireless communication facilities and towers	<b>C</b>	1262.08(g)(1)
Uses similar to other uses permitted in this district and consistent with the purpose of the district, as determined in accordance with Section 1242.06.	<b>C</b>	1242.06

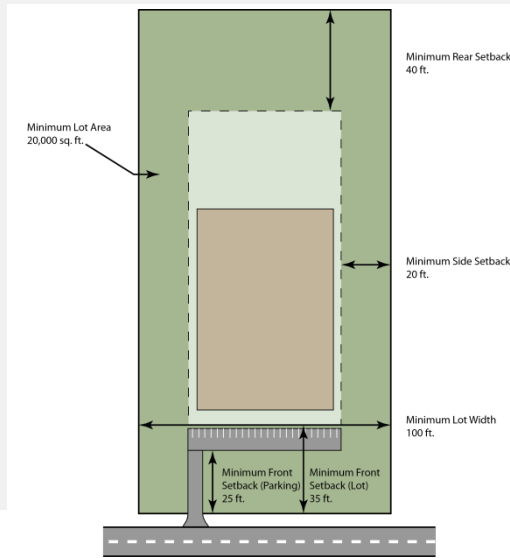
**1246.03 Spatial Requirements**

(a) All lots and buildings shall meet the minimum area and width requirements of *Table 1246.03*. New lots shall not be created, except in conformance with these requirements.

Table 1246.03 Lot and Width Requirements, Educational Institution District		
Zoning District	Minimum Lot Area	Minimum Lot Width (ft.)
E-I, Educational Institution	20,000	100

(b) All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in *Table 1246.03a*.

Table 1246.03a Dimensional Requirements: Educational Institution District							
Zoning District	Maximum Building Height (ft.)	Minimum Yard Setbacks (ft.) <sup>1,2</sup>				Rear	Lot Coverage (%)
		Front		Side			
		Prking.	Bldg.	Total	Least		
E-I	40	25	35	40	20	40	50



<sup>1</sup> Minimum setback requirements shall only apply to those yards abutting or across the street from any zoning district other than E-I.

<sup>2</sup> Average established setback shall apply, where applicable, in accordance with *Section 1260.02(a)*.



**1246.04 Site Development Regulations**

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In addition to the requirements of this article, all development in the Educational Institution District shall meet the applicable requirements as listed elsewhere in this code:

- (a) General Provisions, see *Chapter 1260*
- (b) Conditional Use Requirements, see *Chapter 1262*
- (c) Parking and Loading, see *Chapter 1264*
- (d) Signs, see *Chapter 1266*
- (e) Site Plan Review Requirements, see *Chapter 1268*
- (f) Landscaping Requirements, see *Chapter 1270*
- (g) Overlay Zone Requirements, see *Chapter 1256*

### 1248.01 Purpose

- (a) **“R-A,” Low Density Residential District.** The R-A District is intended to accommodate single family residential subdivision and in-fill development at densities of up to approximately six units per acre, along with related uses. Land within this district will be served by public sanitary sewer and water facilities.
- (b) **“R-B,” Moderate Density Residential District.** The R-B District is intended to encompass much of the Village’s existing single family and medium density residential neighborhoods and accommodate similarly situated new and in-fill development at densities up to eight units per acre. This district also permits the introduction of attached residential units and non-residential uses that are compatible and in scale with the established neighborhood character. Land within this district will be served by public sanitary sewer and water facilities.
- (c) **“R-C,” High Density Residential District.** The R-C District is intended to promote a high quality mix of residential units, including multiple family dwellings, at a density of up to 14 units per acre. Other compatible, non-residential uses may also be permitted. Public sanitary sewer and water facilities are required.

### 1248.02 Schedule of Uses

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this code. Land and/or buildings in the districts indicated at the top of *Table 1248.02* may be used for the purposes denoted by the following abbreviations:

- (a) **Permitted Use (P).** Land and/or buildings in this district may be used by right.
- (b) **Conditional Use (C).** Land and/or buildings in this district may be permitted only if conditional use approval is granted, upon a finding that the general requirements of *Chapter 1262* are met.
- (c) **Specific Conditions.** Indicates requirements or conditions, as listed in *Chapter 1262*, are applicable to specific uses.

Table 1248.02 Schedule of Uses: Residential Districts				
Use	R-A	R-B	R-C	Specific Conditions
<b>Residential</b>				
Accessory dwelling unit	C	C	C	Section 1262.08(e)(1)
Accessory buildings, structures and uses	P	P	P	Section 1260.04
Bed and breakfasts	C	C	C	Section 1262.08(e)(2)
Boarding homes			C	Section 1262.08(e)(3)
Continuing care retirement community		C	C	
Day care, family	P	P	P	
Day care, group	C	C	C	
Dwellings, Attached single family		P	P	
Dwellings, Multiple-family		C	P	
Dwellings, Single family detached	P	P	P	

**Table 1248.02 Schedule of Uses: Residential Districts**

Use	R-A	R-B	R-C	Specific Conditions
Dwellings, Two-family		P	P	
Short-term rental units	C	C	C	Section 1262.08(e)(6)
<b>Non-Residential</b>				
Community gardens	P	P	P	
Farm, including raising animals	C	C	C	
Home occupations <sup>1</sup>	C	C	C	Section 1262.08(e)(5)
Offices for executive, administrative, professional, real estate, accounting and similar professional activities		C	C	
Veterinary clinics			C	
<b>Public/Quasi-public</b>				
Churches and customary related uses	C	C	C	Section 1262.08(c)(1)
Cultural buildings			C	
Government offices and buildings	C	C	C	
Libraries			C	
Schools (elementary, middle and high)	C	C	C	Section 1262.08(c)(2)
<b>Recreation</b>				
Public parks/playgrounds/recreation areas	C	C	C	
<b>Other</b>				
Uses similar to other uses permitted in this district and consistent with the purpose of the district, as determined in accordance with Section 1242.06.	C	C	C	1242.06

<sup>1</sup> Home occupations are permitted by right in all Residential Districts, subject to issuance of a permit by the Village, if applicable, to verify compliance with the conditions of Section 1262.08(e)(5).

**1248.03 Spatial Requirements**

- (a) All lots and buildings shall meet the minimum area and width requirements of *Table 1248.03*. New lots shall not be created, except in conformance with these requirements.

**Table 1248.03 Lot and Width Requirements: Residential Districts**

Zoning District	Minimum Lot Area (sq. Ft.) <sup>1</sup>	Minimum Lot Width (ft.)
<b>R-A, Low Density Residential</b>	<b>7,500</b>	<b>60</b>
<b>R-B, Moderate Density Residential</b>	<b>6,000<sup>2</sup></b>	<b>50</b>
<b>R-C, High Density Residential</b>	<b>4,800<sup>3</sup></b>	<b>40</b>

- (b) All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in *Table 1248.03a*.

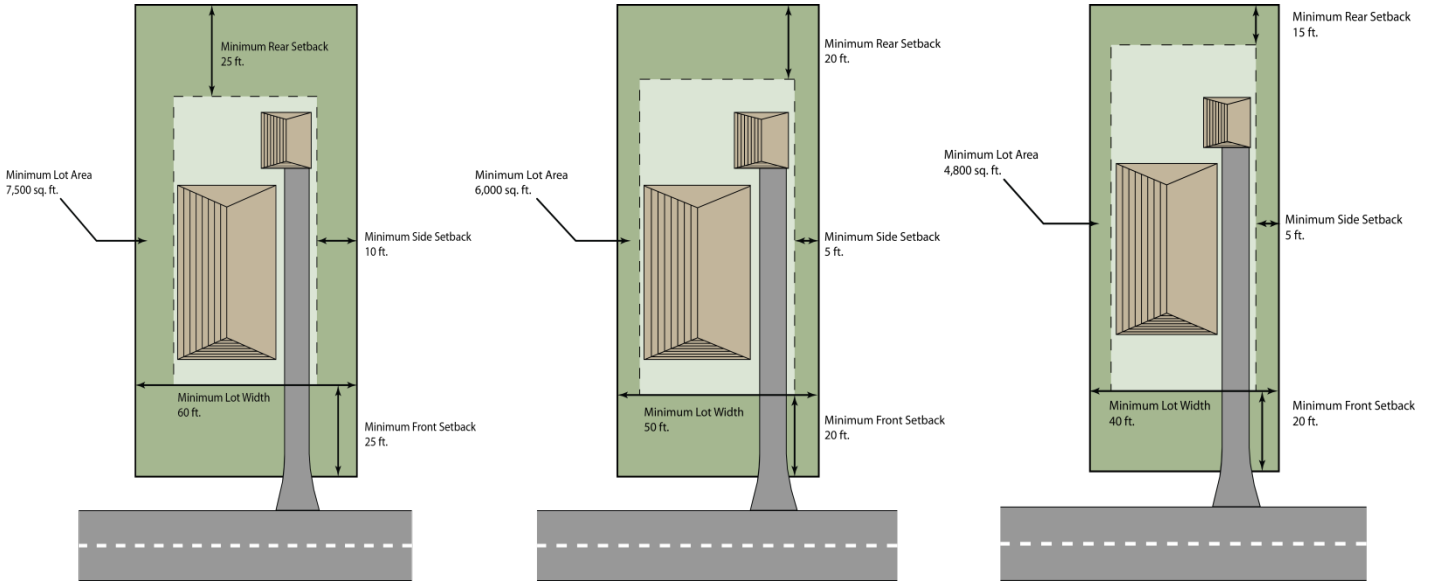
<sup>1</sup> Public water and sanitary sewer is required for all property in these districts.

<sup>2</sup> Two-family and attached single family dwellings shall provide 4,500 square feet per unit. Multi-family dwellings are permitted a density up to 14 units per acre.

<sup>3</sup> Two-family dwellings shall provide 4,000 square feet per unit. Attached single family and multi-family dwellings are permitted a density up to 14 units per acre.

**Table 1248.03a Dimensional Requirements: Residential Districts**

Zoning District	Maximum Building Height (ft./stories)	Minimum Yard Setbacks (ft.) <sup>4</sup>				Max. Lot Coverage (%)
		Front	Side		Rear	
			Total	Least		
R-A	35/2.5	25	25	10	25	35
R-B	35/2.5	20	15	5	20	40
R-C	35/3	20	10	5	15	50



**1248.04 Site Development Regulations**

In addition to the requirements of this article, all development in the Residential Districts shall meet the applicable requirements as listed elsewhere in this code:

- (a) General Provisions, see *Chapter 1260*
- (b) Conditional Use Requirements, see *Chapter 1262*
- (c) Parking and Loading, see *Chapter 1264*
- (d) Signs, see *Chapter 1266*
- (e) Site Plan Review Requirements, see *Chapter 1268*
- (f) Buffering and Screening Requirements, see *Chapter 1270*
- (g) Overlay Zone Requirements, see *Chapter 1256*

<sup>4</sup> Average established setback shall apply, where applicable, in accordance with *Section 1260.02(a)*.

### 1250.01 Purpose

- (a) **“B-1,” Central Business District.** The B-1 District serves as the focal point for the social and commercial activities of the Village. The integration of business, institutional, public, quasi-public, cultural, residential and other related uses is permitted and encouraged. Uses in this district, for the most part, are intended to promote pedestrian movement and social interaction and should be of a scale and character that is consistent with the small town ambiance of the Village of Yellow Springs.
- (b) **“B-2,” General Business District.** The B-2 District accommodates general retail and/or auto-dependent businesses. Uses within this district typically require high visibility, major arterial frontage, good access and ample parking. While these uses are provided for, the B-2 District is intended to be limited to a confined area so as to prevent the creation of a commercial strip and a proliferation of uses that would detract from the central business hub of the community.

### 1250.02 Schedule of Uses

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this code. Land and/or buildings in the districts indicated at the top of *Table 1250.02* may be used for the purposes denoted by the following abbreviations:

- (a) **Permitted Use (P).** Land and/or buildings in this district may be used by right.
- (b) **Conditional Use (C).** Land and/or buildings in this district may be permitted only if conditional use approval is granted, upon a finding that the general requirements of *Chapter 1262* are met.
- (c) **Specific Conditions.** Indicates requirements or conditions, as listed in *Chapter 1262*, are applicable to specific uses.

Table 1250.02 Schedule of Uses: Business Districts			
Use	B-1	B-2	Specific Conditions
<b>Accessory Uses</b>			
Accessory buildings, structures, and uses	P	P	Section 1260.04
Home occupations	C		Section 1262.08(e)(5)
Outdoor patio seating in conjunction with a permitted restaurant	C	C	
<b>Food, Drink, Entertainment and Hospitality</b>			
Art galleries, museums and similar cultural facilities	P		
Assembly and performance halls	C		
Bars, taverns, clubs and restaurants serving alcoholic beverages	C	C	
Bed and breakfasts	C		Section 1262.08(e)(2)
Brew pubs and similar establishments	C	C	
Community centers and senior centers	P		
Cultural buildings	C		
Farmers' market	C	C	
Hotels and motels	C	C	

**Table 1250.02 Schedule of Uses: Business Districts**

Use	B-1	B-2	Specific Conditions
Indoor commercial recreation such as theaters, bowling lanes and skating rinks	C	C	
Internet sweepstakes café	C		
Mobile vending (food trucks)	C		1268.08(d)(1)
Outdoor commercial recreation such as mini-golf and batting cages		C	Section 1262.08(d)(3)
Restaurants, excluding drive-in or drive-thru facilities	P	P	
<b>Health Care and Social Assistance</b>			
Hospitals		C	
Medical and dental laboratories		C	
Medical and dental offices and clinics	C	P	
<b>Office, Financial and Commercial Services</b>			
Banks, credit unions and similar financial institutions, excluding drive in and drive-thru facilities	P	P	
Business machine sales & service		P	
Cleaning services		P	
Electric, plumbing supplies sales & service	P	P	
Glass sales & service		P	
HVAC sales & service		P	
Locksmith shops		P	
Machinery and equipment sales & service		P	
Mail order businesses and fulfillment centers		P	
Offices for executive, administrative, professional, real estate, accounting and similar professional activities	P	P	
Pest control services		P	
Petroleum products sales		C	
Printing, photocopying and publishing services	P	P	
Repair shops (non-automotive)		P	
Tool and equipment rental		P	
<b>Personal Service</b>			
Commercial schools and studios including art, dance, martial arts, and music	P	C	
Day care, nursery schools and child care establishments	P	P	
Health and fitness clubs	P	P	
Personal service establishments such as barber and beauty shops, tailors, photo studios, shoe repair and watch repair	P	P	
Tattoo parlor	C	CC	
<b>Public/Quasi-Public</b>			
Churches and customary related uses	C	P	
Government offices and facilities	P	P	
Libraries	C		
<b>Residential</b>			
Dwellings, Single family detached	P		
Dwelling units on the upper floors of buildings with non-residential uses at street level	C		Section 1262.08(e)(4)
Short-term rentals	C	C	Section 1262.08(e)(6)
<b>Retail</b>			
Artisan shops, such as glass blowers, metal sculptors, wood carvers and weavers producing their goods and selling them for retail on premises	C	P	

<b>Table 1250.02 Schedule of Uses: Business Districts</b>			
<b>Use</b>	<b>B-1</b>	<b>B-2</b>	<b>Specific Conditions</b>
Bicycle sales, rental and repair	P		
Building supply and equipment sales, not including lumber yards		C	
General retail catering to the needs of the community, but less than 10,000 square feet of UFA	P	P	
General retail of 10,000 square feet UFA or more	C	P	Section 1262.08(a)(3)
<b>Vehicle Sales, Service and Related Uses</b>			
Drive-in and drive-thru facility for banks, pharmacies, restaurants and dry cleaners	C	C	Section 1262.08(a)(1) and 1262.08(d)(2)
Sales of new and used vehicles, boats, farm implements and similar vehicles and equipment		C	Section 1262.08(h)(1)
Sale of new vehicle parts, not including installation/repair		P	
Truck and trailer rental		C	
Vehicle and equipment rental		C	
Vehicle repair, major		C	Section 1262.08(h)(2)
Vehicle repair, minor		C	Section 1262.08(h)(3)
Vehicle service stations		C	Section 1262.08(h)(4)
Vehicle wash facilities		C	Section 1262.08(h)(5)
<b>Other</b>			
Mortuaries and funeral homes	C	C	Section 1260.08(a)(2)
Showrooms for home improvements, decorations and similar items, not including outdoor storage	P	P	
Radio, television and recording studios	C	P	
Utility and public service buildings, not including outdoor storage		P	
Uses similar to other uses permitted in this district and consistent with the purpose of the district, as determined in accordance with Section 1242.06.	C	C	1242.06
Veterinary clinics		C	

**1250.03 Spatial Requirements**

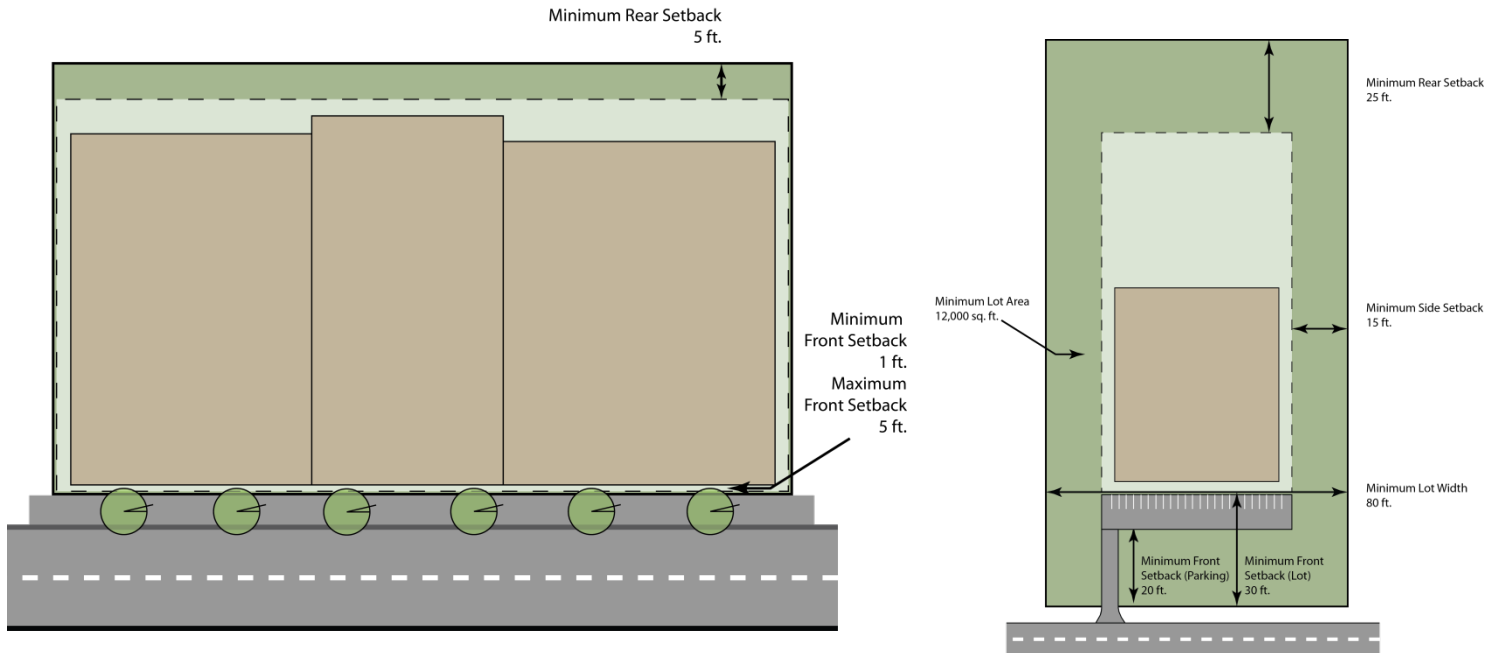
- (a) All lots and buildings shall meet the minimum area and width requirements of *Table 1250.03*. New lots shall not be created, except in conformance with these requirements

<b>Table 1250.03 Lot and Width Requirements: Business Districts</b>		
<b>Zoning District</b>	<b>Minimum Lot Area (sq. Ft.)</b>	<b>Minimum Lot Width (ft.)</b>
<b>B-1, Central Business</b>	<b>0</b>	<b>0</b>
<b>B-2, General Business</b>	<b>12,000</b>	<b>80</b>

- (b) All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in *Table 1250.03a*.

**Table 1250.03a Dimensional Requirements: Business Districts**

Zoning District	Maximum Building Height (feet)	Minimum Yard Setbacks (ft.)					Lot Coverage (%)
		Front		Side		Rear	
		Park'g	Bldg. <sup>1</sup>	Total	Least		
<b>B-1</b>	<b>35</b>	<b>0</b>	<b>1/10<sup>2</sup></b>	<b>0</b>	<b>0<sup>3</sup></b>	<b>5<sup>4</sup></b>	<b>90</b>
<b>B-2</b>	<b>45</b>	<b>20</b>	<b>30</b>	<b>30</b>	<b>15<sup>5</sup></b>	<b>25<sup>6</sup></b>	<b>50</b>



## 1250.04 Site Development Regulations

In addition to the requirements of this chapter, all development in the business districts shall meet the applicable requirements as listed elsewhere in this code:

- (a) General Provisions, see Chapter 1260
- (b) Conditional Use Requirements, see *Chapter 1262*
- (c) Parking and Loading, see *Chapter 1264*
- (d) Signs, see *Chapter 1266*
- (e) Site Plan Review Requirements, see *Chapter 1268*
- (f) Buffering and Screening Requirements, see *Chapter 1270*
- (g) Overlay Zone Requirements, see *Chapter 1256*

<sup>1</sup> Average established setback shall apply, where applicable, in accordance with *Section 1260.02(a)*.

<sup>2</sup> Buildings shall be set back at least one foot, but not more than ten feet, from the right-of-way line

<sup>3</sup> No side setback is required, unless the side yard abuts a Residential District in which case a minimum side yard of 15 feet shall be provided along that side

<sup>4</sup> If the rear yard abuts a Residential District, a setback of 15 feet shall be provided

<sup>5</sup> If the side yard abuts a Residential District or a Village boundary line, a setback of 30 feet shall be provided

<sup>6</sup> If the side yard abuts a Residential District or a Village boundary line, a setback of 35 feet shall be provided



### 1252.01 Purpose

- (a) **“I-1,” Mixed Industrial District.** The I-1 District is intended to provide dedicated locations within the community for office, research, knowledge-based industry, services, light manufacturing and related uses that offer employment opportunities and create economic vitality for the Village and its residents.
- (b) **“I-2,” Industrial District.** The I-2 District establishes a location for industrial and heavy commercial uses that provide significant employment opportunities within the Village. Uses in this district tend to be more intensive than those in the I-1 District and due to the potential for large truck traffic, late hours of operation and other potentially deleterious effects on the surroundings and the community may require conditional use review.

### 1252.02 Schedule of Uses

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this code. Land and/or buildings in the I-1 and I-2 districts may be used for the purposes denoted by the following abbreviations in *Table 1252.02*:

- (a) **Permitted Use (P).** Land and/or buildings in this district may be used by right.
- (b) **Conditional Use (C).** Land and/or buildings in this district may be permitted only if conditional use approval is granted, upon a finding that the general requirements of *Chapter 1262* are met.
- (c) **Specific Conditions.** Indicates requirements or conditions, as listed in *Chapter 1262*, are applicable to specific uses.

Table 1252.02 Schedule of Uses: Industrial Districts			
Use	I-1	I-2	Specific Conditions
<b>Accessory Uses</b>			
Accessory buildings, structures and uses	P	P	1260.04
Cafeteria facilities located within a principal use	P	P	
Caretaker residence	C	C	
Child care facilities located within a principal use	C	C	
Corporate offices incidental to the principal use	P	P	
Outdoor patio in conjunction with a permitted restaurant	C	C	
Outdoor storage related to a principal use	C	C	
Retail incidental to the manufacture or production of goods on the premises, not exceeding 30 percent of the total floor area of the principal building	C	C	
Vehicle wash facilities for trucks and trailers	P	P	
<b>Agriculture, Food and Animal-related Uses</b>			
Agribusiness	C	P	
Breweries, distilleries and bottling plants	P	C	
Farm, including raising animals	C	C	
Farmers market	C		
Food processing plants	C	P	

<b>Table 1252.02 Schedule of Uses: Industrial Districts</b>			
<b>Use</b>	<b>I-1</b>	<b>I-2</b>	<b>Specific Conditions</b>
Greenhouse/nursery (not including retail sales)	C	P	
Kennels	C		
Produce and other food products terminals	C	P	
<b>Commercial Establishments</b>			
Business machine sales & service	P		
Cleaning services	P		
Electric, plumbing supplies sales & service (not including showrooms)	P		
Glass sales & service	P		
HVAC sales & service	P		
Locksmith shops	P		
Machinery and equipment sales & service	P	P	
Mail order businesses and fulfillment centers	P	P	
Pest control services	P		
Petroleum products sales	P		
Printing, photocopying and publishing facilities	P	P	
Repair shops (non-automotive)	P		
Tool and equipment rental	P		
<b>Construction</b>			
Building material and lumber supply, including lumberyards	C	P	
Contractors' offices and shops (not including outdoor storage)	P	P	
Landscaping services	C	P	
<b>Educational</b>			
Commercial schools and studios including art, dance, martial arts, and music	C		
Trade schools	P	P	
Training centers, engineering or sales	P	P	
<b>Food, Drink, Entertainment and Hospitality</b>			
Bars, taverns, clubs and restaurants serving alcoholic beverages	C		
Brew pubs and similar establishments	C		
Mobile vending (food trucks)	C	C	1262.08(d)(1)
Restaurants, excluding drive-in or drive-thru facilities	C		
Sexually oriented businesses	P		1262.08(d)(3)
<b>Health Care and Social Assistance</b>			
Medical and dental laboratories	C	C	
<b>Manufacturing</b>			
Building material manufacturing including milling, planning and joining	C	C	
Chemical manufacturing and storage	C	C	1262.08(b)(1)
Machine, sheet metal and welding shops	C	C	
Manufacturing, compounding, processing, packaging, treating or assembly from previously prepared materials	P	C	
Metal stamping, pressing and buffing	C	C	
Paint, rust proofing and rust coating	C	C	
Tool and die shops	C	C	
<b>Offices, Research and Technical Facilities</b>			
Offices for executive, administrative, professional, real estate, accounting and similar professional activities	P		

<b>Table 1252.02 Schedule of Uses: Industrial Districts</b>			
<b>Use</b>	<b>I-1</b>	<b>I-2</b>	<b>Specific Conditions</b>
Research, development and testing laboratories	P	P	
<b>Public Facilities</b>			
Government offices, buildings and facilities	P	P	
<b>Transportation and Warehousing</b>			
Bottled gas storage and distribution	C	C	
Cartage, express and parcel delivery facilities	C	C	1262.08(f)(1)
Heliports and helipads	C	C	
Mini-warehouse and self-storage facilities	C		1262.08(f)(2)
Warehouses and distribution centers	C	P	1262.08(f)(1)
Wholesale businesses	C	P	
<b>Utilities</b>			
Public utility buildings	P	P	
Solar facilities (non-residential)	P	P	
Telephone exchange buildings	P	P	
Utility substations	P	P	
Wind energy conversion systems(single accessory)	C	C	
Wireless communication facilities and towers	C	C	1262.08(g)(1)
<b>Vehicle Sales, Service and Related</b>			
Truck and heavy equipment repair		C	1262.08(h)(2)
Truck and trailer rental	C		
Vehicle and equipment rental	C		
Vehicle repair, major	C		1262.08(h)(2)
Vehicle repair, minor	C		1262.08(h)(3)
Vehicle service stations	C		1262.08(h)(4)
Vehicle wash facilities	C		1262.08(h)(5)
<b>Waste Processing and Disposal</b>			
Recycling collection and/or processing facility (non-hazardous)		C	
Storage of hazardous materials		C	1262.08(b)(1)
<b>Other</b>			
Artisan shops, such as glass blowers, metal sculptures, wood carvers and weavers producing their goods and selling them for retail on premises	C		
Bicycle sales, rental and repair	C		
Radio, television and recording studios	P	P	
Uses similar to other uses permitted in this district and consistent with the purpose of the district, as determined in accordance with Section 1242.06.	C	C	1242.06

### **1252.03 Spatial Requirements**

- (a) All lots and buildings shall meet the minimum area and width requirements of *Table 1252.03*. New lots shall not be created, except in conformance with these requirements.

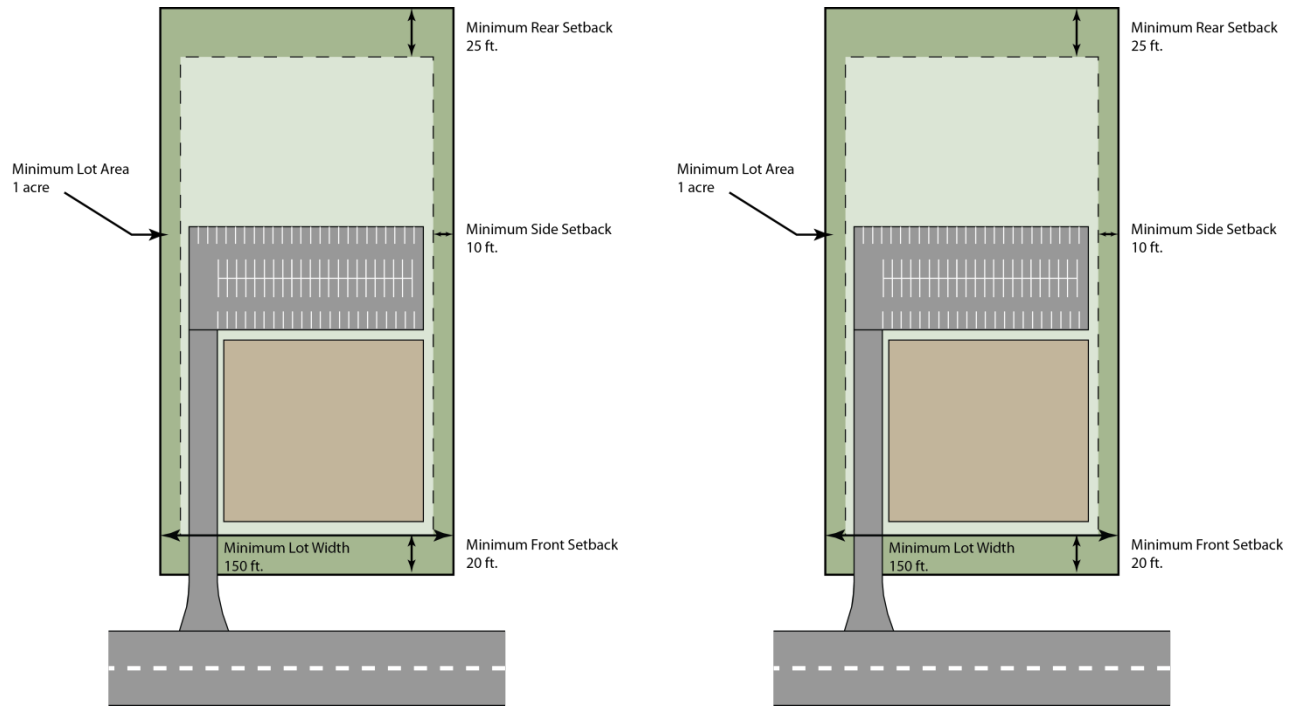
**Table 1252.03. Lot and Width Requirements: Industrial Districts**

Zoning District	Minimum Lot Area <sup>1</sup>	Minimum Lot Width (ft.)
I-1, Industrial	1 acre	150 ft.
I-2, Industrial	2 acres	200 ft.

(b) All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in *Table 1252.03a*.

**Table 1252.03a. Dimensional Requirements: Industrial Districts**

Zoning District	Maximum Building Height (feet)	Minimum Yard Setbacks (ft.)					Lot Coverage (%)
		Front <sup>2</sup>		Side		Rear	
		Prking. <sup>3</sup>	Bldg.	Total	Least		
I-1	40	<sup>3</sup>	20	25	10	25	70
I-2	40	<sup>3</sup>	20	40	15	35	70



<sup>1</sup> Public water and sanitary sewer are required for all property in this district.

<sup>2</sup> Average established setback shall apply, where applicable, in accordance with *Section 1260.02(a)*.

<sup>3</sup> Parking and loading shall not be permitted in any front yard.

## **1252.04 Site Development Regulations**

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In addition to the requirements of this chapter, all development in the I-1 and I-2 Districts shall meet the applicable requirements as listed elsewhere in this code:

- (a) General Provisions, see *Chapter 1260*
- (b) Conditional Use Requirements, see *Chapter 1262*
- (c) Parking and Loading, see *Chapter 1264*
- (d) Signs, see *Chapter 1266*
- (e) Site Plan Review Requirements, see *Chapter 1268*
- (f) Landscaping Requirements, see *Chapter 1270*

**1254.01 Purpose**

The Planned Unit Development (PUD) District is established as an optional development tool to permit flexibility in the regulation of land development; to encourage innovation in land use, form of ownership and variety of design, layout and type of structures constructed; to achieve economy and efficiency in the use of land; to preserve significant natural, historical and architectural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide better housing, employment and business opportunities particularly suited to residents; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the property and surrounding areas. It is the further intent of the PUD regulations to promote a higher quality of development than can be achieved from conventional zoning requirements in furtherance of the vision and goals of the adopted Yellow Springs Comprehensive Plan and Vision: Yellow Springs and Miami Township.

**1254.02 Qualifying Conditions**

In order to qualify for PUD approval, the project must satisfy the conditions of this section. It is the applicant's responsibility to demonstrate, in writing, that each of the following criteria is or will be met by the proposed PUD:

- (a) *Recognizable Benefit.* A PUD shall achieve recognizable and substantial benefits that would not be possible under the existing zoning classification(s). At least three of the following benefits shall be accrued to the community as a result of the proposed PUD:
  - (1) preservation of significant natural features,
  - (2) a complementary mix of land uses or housing types,
  - (3) extensive open space and recreational amenities,
  - (4) connectivity of open space with new or existing adjacent greenway or trail corridors,
  - (5) preservation of small town appeal,
  - (6) improvements to public streets or other public facilities that mitigate traffic and/or other development impacts,
  - (7) coordinated development of multiple small parcels,
  - (8) or removal or renovation of blighted buildings, sites or contamination clean-up.
- (b) *Size.* Each PUD shall contain a minimum of five acres; provided sites containing less than five acres may be considered for rezoning to PUD, if the Village Council determines that the site will advance the purposes of the PUD District. When determining the appropriateness of areas less than the applicable minimum required, the Village Council shall determine that:
  - (1) rezoning the area to PUD will not result in a significant adverse effect upon nearby or adjacent Village lands;
  - (2) the proposed uses will complement the character of the surrounding area;
  - (3) the purpose and qualifying conditions of the PUD District can be achieved within a smaller area; and

- (4) the PUD is not being used as a means to circumvent conventional zoning requirements.
- (c) *Utilities.* The PUD shall be served by public water and sanitary sewer.
- (d) *Ownership.* The PUD application shall be filed by the property owner, lessee or other person with legal interest in the property and written consent by the owner. The proposed development shall be under unified ownership or control, so one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as proposed.
- (e) *Comprehensive Plan and Vision.* Proposed uses and design of the PUD shall be substantially consistent with the Village's adopted Comprehensive Plan and the principles for land stewardship contained in the Vision: Yellow Springs and Miami Township.
- (f) *Pedestrian Accommodation.* The PUD shall provide for integrated, safe and abundant pedestrian and bicycle access and movement within the PUD and to adjacent properties.
- (g) *Architecture.* Building forms, relationships, scale and styles shall be harmonious and visually integrated.
- (h) *Traffic.* The PUD shall provide for safe and efficient vehicular movement within, into and out of the PUD site. Traffic calming techniques, parking lot landscaping, and other sustainable design solutions shall be employed to improve traffic circulation, storm water management, pedestrian safety and aesthetic appeal.
- (i) *Eligible Districts.* Land within any zoning district may qualify for PUD zoning.

### 1254.03 PUD Requirements

- (a) *Permitted Uses.* Any use permitted by right or conditional approval in any zoning district may be permitted within a PUD, subject to the provisions of *Section 1254.02, Qualifying Conditions* and the requirements of this section.
- (b) *Minimum Lot Size and Zoning Requirements.* Lot area, width, setbacks, height, lot coverage, minimum floor area, parking, landscaping, lighting and other requirements for the district applicable to the proposed use, as provided in *Table 1254.03*, shall be applicable for all such uses within a PUD, unless modified in accordance with *Section 1254.03 (d)*. In the case of a mix of uses, the zoning requirements applicable to each use category shall apply to that use.

Table 1254.03 Minimum Zoning Requirements	
Land Use	Applicable Zoning District
Single family	R-B
Two family	R-B
Townhome	R-B
Multiple family	R-C
Retail, office, service business	B-2

Industry	I-1
Institutional	E-I

- (c) *Connectivity.* Pathways for bicycles and pedestrians shall be incorporated throughout the development and along all perimeter streets to ensure connectivity between uses and with adjacent properties. The pathways shall be paved and shall be designed to Village standards.
- (d) *Modification of Minimum Requirements.* District regulations applicable to a land use in the PUD may be altered from the requirements specified in *Table 1254.03*, including but not limited to, modification from the lot area and width, building setbacks, height, lot coverage, signs and parking. The applicant for a PUD shall identify, in writing, all intended deviations from the zoning requirements. Modifications may be approved by the Village Council during the preliminary development plan review stage, after Planning Commission recommendation. These adjustments may be permitted only if they will result in a higher quality and more sustainable development consistent with the purposes of PUD expressed in *Section 1254.01*. The modifications shall also satisfy at least four of the following criteria:
- (1) preserve the best natural features of the site;
  - (2) create, improve or maintain open space for the residents, employees and visitors beyond the minimum required by subsection (e);
  - (3) commit that at least ten percent of all dwelling units in the PUD will be “permanently” affordable units or twenty percent affordable units, or commit to a payment in lieu of constructing such units, as agreed to with the Village Council;
  - (4) provide a mix of residential types such as single family, townhome and/or multiple family;
  - (5) employ low impact design and/or other best practices to manage storm water and reduce the off-site impacts of runoff;
  - (6) employ practices in site layout, building construction and materials that will result in a measurable reduction in energy consumption;
  - (7) introduce new development concepts, such as cohousing; and/or
  - (8) include a mix of residential and non-residential uses.
- (e) *Density Bonus.* In addition to the modification of minimum requirements permitted in *Section 1254.03(d)*, the Village Council, after Planning Commission recommendation, may permit an increase in the total number of residential units allowed within a PUD where it is demonstrated that at least three of the following amenities will be included in the development:
- (1) more than twenty percent of the total units within the PUD will be committed as “permanently” affordable units;
  - (2) cool roof technology will be employed on all buildings within the PUD;
  - (3) fresh food market will be incorporated into the PUD;
  - (4) buildings will be designed and constructed to accommodate green roof gardens;
  - (5) one or more of the buildings within the PUD will be LEED certified building(s);
  - (6) low impact development (LID) design principles will be employed to minimize storm water runoff;
  - (7) solar panels will be installed on one or more of the buildings within the development and will yield a measurable reduction in energy usage;



- (8) additional accommodation beyond the required pathways will be made for bicycles and pedestrians; and/or
  - (9) a minimum of 25% open space will be dedicated within the development.
- (f) *Open Space*. At least 15 percent of the area of a PUD site shall be preserved as open space, in accordance with the following requirements. For purposes of this requirement, “green roofs” shall be counted as open space.
- (1) Areas Not Considered Open Space. The following land areas shall not be counted as required open space for the purposes of this section:
    - A. the area within any public street right-of-way or private street easement;
    - B. any easement for overhead utility lines, unless adjacent to qualified open space;
    - C. storm water detention ponds; provided, rain gardens or ponds designed as water features that may also provide for storm water storage may be counted toward required open space;
    - D. 50 percent of any flood plain, wetland, water body or steep slope (15 percent or greater) area and 50 percent of the area of any golf course;
    - E. the area within a platted lot, unless the lot has been dedicated to open space on the plat via conservation easement or other means of ensuring that the lot is permanent open space; and
    - F. parking and loading areas.
  - (2) Specifications for Required Open Space. Required open space areas shall meet the following specifications:
    - A. shall be for use by all residents, employees and visitors of the PUD, subject to reasonable rules and regulations. In the case of a golf course, stable or similar facility, membership shall be available to all residents of the PUD, subject to charges, fees or assessments for use;
    - B. if the site contains a river, stream or other body of water, the Village may require that a portion of the required open space abuts the body of water;
    - C. leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public street rights-of-way;
    - D. protects the roadside character by establishing buffer zones along scenic corridors and improves public safety and vehicular carrying capacity by avoiding development that fronts directly onto existing roadways;
    - E. shall be configured so the open space is reasonably usable by residents of the PUD;
    - F. shall be of sufficient size and dimension and located, configured, or designed in such a way as to achieve the applicable purposes of this chapter and enhance the quality of the development. The open space shall neither be perceived nor function simply as an extension of the rear yard of those lots abutting it;
    - G. to the extent practical, open space areas shall be linked with adjacent open spaces, public parks, bicycle paths or pedestrian paths;
    - H. pedestrian access points to the required open space areas from the interior of the PUD shall be provided and clearly identified by signs or a visible improved path for safe and convenient access;
    - I. grading shall be minimal, with the intent to preserve existing topography and landscaping where practical; and

- J. may contain ball fields, tennis courts, swimming pools and related buildings, community buildings, golf courses, and similar recreational facilities. However, no more than 50% of the required open space may contain any of these uses.
- (g) *Existing PUDs.* Within the Village there are previously approved planned unit developments, identified on the zoning map as “PUD\*”. These developments shall be exempt from the requirements of this chapter and shall conform to the prior approved development plans for each respective project. However, any expansion to or modification of the existing approved developments that constitutes a major change, as defined in Section 1254.07, shall be subject to the following procedural requirements of this chapter:
- A. Major changes shall be subject to the Final Development Plan requirements of Section 1254.05(d).
  - B. The Review Standards of Section 1254.06(c) to (h) shall apply.
  - C. The General Provisions of Section 1254.04 shall apply.
- (h) *Center for Business and Education.* Prior to the adoption of this code, the Center for Business and Education mixed commerce development was proposed, reviewed and approved. Having undergone that process and received Village Council approval, based on specific development parameters and conditions, the property formerly zoned “Mixed Commerce” is hereby zoned “PUD” and identified as “PUD\*” on the zoning map. All prior representations, conditions, plans and requirements attached to the approval of the Center for Business and Education development shall supersede the requirements of this Chapter and shall remain in force and become attached to the PUD designation of the subject property. However, any modification of the approved plans that constitute a change of use or major change, as defined in Section 1254.07, shall be subject to the following procedural requirements of this chapter:
- A. Major changes shall be subject to the Final Development Plan requirements of Section 1254.05(d).
  - B. The Review Standards of Section 1254.06(c) to (h) shall apply.
  - C. The General Provisions of Section 1254.04 shall apply.

#### **1254.04 General Provisions**

- (a) *Conditions.* Reasonable conditions may be imposed upon the PUD approval by the Planning Commission and/or Village Council. The conditions imposed shall be recorded in the minutes of the approval action, and shall remain unchanged except upon amendment of the PUD in accordance with the procedures of *Section 1254.07*. Conditions may include, but are not limited to, those necessary to:
- (1) ensure public services and facilities will be capable of accommodating increased loads;
  - (2) protect the natural environment and conserve natural resources and energy;
  - (3) ensure compatibility with adjacent uses of land;
  - (4) meet the intent and purpose of this code;
  - (5) be related to the standards established in the code for the proposed PUD;
  - (6) ensure compliance with the final development plan and the provisions of this code.

- (b) *Performance Guarantees.* The Village Council or Planning Commission may require reasonable performance guarantees, in accordance with *Section 1272.04* of this code to ensure completion of specified improvements within the PUD.
- (c) *Interior Streets.* Public or private streets may be required to be extended to exterior lot lines in order to allow connection to existing or planned streets on adjacent parcels, so as to provide for secondary access, continuity of the circulation system and to reduce traffic on collector streets.
- (d) *Time Limits.* Each PUD shall be under construction within 12 months after the date of approval of the final development plan. If this requirement is not met, the Village Council may, in its discretion, grant extensions not exceeding 12 additional months for each such extension; provided that prior to the expiration of the initial 12 month period and any subsequent extension, the applicant submits reasonable evidence in writing to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the PUD. If the PUD has not been commenced within the initial 12 month approval period, or within an authorized extension thereof, any building permits issued for the PUD or any part thereof shall be of no further effect. At the expiration of the applicable period of time, the Planning Commission or Village Council may initiate proceedings for the rezoning of the property to some other zoning district.

### **1254.05 Review Process**

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The following procedures shall be followed in the establishment of any planned unit development:

- (a) *Pre-Application Conference.* Prior to filing a formal application for a planned unit development, the applicant shall meet with the zoning administrator and/or other Village officials in order to review the general character of the proposed development, i.e., its scope, nature and location. At this time, the applicant shall be advised of the PUD review procedures and the various information, studies, etc., which may be required as part of the review process.
- (b) *Preliminary PUD Application.* An application for rezoning to PUD shall be submitted to the zoning administrator on a form for that purpose, along with an application fee in accordance with the schedule of fees established by the Village Council. In addition, the application shall include the following:
  - (1) Parallel plan. Residential density shall be determined through the preparation of a conventional development plan illustrating how the site could be developed in accordance with the basic requirements specified in *Table 1254.03*. A concept layout shall be prepared to scale showing, as applicable, single family and two-family lots, townhome and multiple family buildings, parking, setbacks and street rights-of-way. The number of units that could be accommodated under the requirements of *Table 1254.03* shall serve as maximum number permitted, unless a density bonus is approved in accordance with *Section 1254.03(e)*. Live/work units located above main floor businesses shall not be counted toward the maximum number of dwellings.
  - (2) Preliminary development plan. A preliminary development plan containing the following information shall be submitted:
    - A. general location map;
    - B. legal description of the subject property;

- C. title block, date, north arrow, scale, name and contact information of applicant and name and contact information of plan preparer;
  - D. current topographical map clearly showing existing topographic conditions, including contour intervals of no more than two (2) feet based on field survey or photogrammetric methods;
  - E. property boundary survey;
  - F. location of existing natural features including woods, streams, ponds, wetlands and steep (15 percent or greater) slopes;
  - G. existing land uses within the development site and surrounding areas for a distance of 300 feet, including the approximate location of all buildings, structures, lots and streets (an aerial photo may suffice);
  - H. location and identification of existing and proposed public, semi-public, or community facilities such as schools, parks, trails, churches, public buildings and dedicated open space;
  - I. existing zoning on all abutting properties;
  - J. approximate location of existing and proposed utilities, including a preliminary utility and drainage concept plan;
  - K. uses proposed within the PUD;
  - L. number and type of dwelling units proposed, including the number and type of committed affordable units, if any;
  - M. conceptual layout;
  - N. general location of proposed interior streets and access points to abutting streets;
  - O. number and general location of off-street parking facilities; and
  - P. perspective drawings or photographs of representative building types, indicating the proposed architectural style and appearance.
- (3) Summary of intent. A written statement containing the following information shall be submitted with the preliminary development plan:
- A. statement of how the proposed PUD meets each of the qualifying conditions of *Section 1254.02*;
  - B. statement of the present ownership of all land within the proposed development;
  - C. explanation of the character of the proposed development including a summary of acres or square footage by type of use, number and type of dwelling units, gross density calculation for dwelling units, and minimum standards for floor area, lot size, and setbacks;
  - D. verification that the subject site is not located within an existing flood plain;
  - E. a complete description of any requested variations from the applicable spatial or other requirements applying to the property, in accordance with *Section 1254.03(d)*;
  - F. general statement of the proposed development schedule and progression of each phase or stage; and
  - G. intended agreements, provisions, and covenants to govern the use of the development, building materials or architectural styles and any common or open space areas, including the provisions which will organize, regulate and sustain a property or home owners association, if applicable.
- (c) *Preliminary PUD Plan and Rezoning*.

- (1) Planning Commission review. Upon receipt of the PUD application and related materials, the Planning Commission shall conduct a work session with the applicant to review the development concept and determine the need for additional information, prior to conducting a public hearing.
  - (2) Additional information. If required by the Planning Commission, the applicant shall submit additional information and/or studies to support the request such as, but not limited to: impact assessment, traffic analysis, storm water study, market feasibility study.
  - (3) Public hearing. Upon completion of its initial review and following receipt of any additional materials, the Planning Commission shall conduct a public hearing, notice of which shall be in accordance with the requirements of *Section 1280.03(e)*.
  - (4) Recommendation. Following the public hearing, the Planning Commission shall review the PUD request and the preliminary development plan, based on conformance with the standards of *Section 1254.06* and shall make a recommendation to the Village Council to approve, disapprove, or approve with modifications the request for PUD zoning and the preliminary development plan.
  - (5) Village Council action. Upon receipt of the Planning Commission recommendation, the Village Council shall review the preliminary development plan, the record of the Planning Commission proceedings, the standards of *Section 1254.06* and the recommendation of the Planning Commission and shall approve, disapprove, or approve with modifications the preliminary development plan and rezoning request.
  - (6) Zoning map. If the PUD zoning is approved, the zoning administrator shall cause the zoning map to be changed to indicate the planned unit development. If the preliminary development plan is approved with modifications, the applicant shall file with the zoning administrator written notice of consent to the modifications and a properly revised preliminary development plan prior to the map being changed.
- (d) *Final Development Plan.* Within 12 months of the Village Council's approval of the preliminary development plan and PUD rezoning, the applicant shall submit a final development plan for the entire PUD or one or more phases to the zoning administrator, in accordance with the requirements for final site plan review as contained in *Section 1268.05* of this code. If determined to be complete by the zoning administrator, copies of the plan shall be forwarded to the Planning Commission.
- (1) Phased projects. If the PUD is to be developed in phases, the final development plan may be submitted for one or more phases of the overall PUD. A tentative schedule for the completion of each phase and commencement of the next phase shall also be submitted for Planning Commission approval.
  - (2) Extension of time limit. One extension of the time period for submitting the final development plan may be granted by the Village Council for up to an additional 12 months, if a request is submitted by the applicant, in writing, prior to the expiration of the original 12 month approval period. If an application for final development plan approval has not been submitted prior to the expiration of the original 12 months or an approved extension, the preliminary development plan shall be null and void. In addition, the Planning Commission or Village Council may initiate a rezoning of the property to another zoning district.
  - (3) Subdivision plat. For any PUD requiring subdivision plat approval, the subdivision plat shall be submitted simultaneously with the final development plan and reviewed concurrently as part of the PUD.

- (4) **Review and action.** The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and any conditions or modifications attached to the PUD rezoning by the Village Council. If it is determined that the final plan does not substantially conform with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with *Section 1254.05 (b)*. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the standards for site plan review, *Section 1268.06* and the PUD standards of *Section 1254.06*. The Planning Commission shall prepare a record of its findings and shall approve, disapprove, or approve with modifications the final development plan.
- (e) **PUD Agreement.**
- (1) Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Village, in recordable form, setting forth the applicant's obligations with respect to the PUD.
  - (2) The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required modifications, other documents which comprise the approved PUD, and all conditions attached to the approval by the Village.
  - (3) A phasing plan shall also be submitted, if applicable, describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
  - (4) The agreement shall also establish the remedies of the Village in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant.
  - (5) All documents shall be executed and recorded in Greene County.

### **1254.06 Review Standards**

In considering the PUD request, the reviewing body must find that the proposed development meets all of the following general standards:

- (a) The PUD will comply with the standards, conditions, and requirements of this chapter.
- (b) The PUD will promote the intent and purpose of this chapter.
- (c) The proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project.
- (d) The proposed project will be consistent with the public health, safety, and welfare needs of the village.
- (e) Granting the PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community, which would not otherwise be feasible or achievable under the conventional zoning districts.
- (f) The PUD will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.

- (g) The PUD will be consistent with the Village's Comprehensive Plan and Vision: Yellow Springs and Miami Township. Specifically, the following planning principles shall be adhered to, as applicable:
- (1) Redevelopment and infill locations should be favored over greenfield development;
  - (2) Natural features and resources should be preserved or at least conserved;
  - (3) Future development/redevelopment shall strengthen the physical character of the Village;
  - (4) Quality design is emphasized for all uses to create an attractive, distinctive public and private realm;
  - (5) Places are created with an integrated mix of uses that contribute to the Village's identity and vitality;
  - (6) Diverse housing choices are found throughout the Village, including relatively high density and affordable units;
  - (7) Parks, open space and recreational areas are incorporated into future development; and
  - (8) Places are connected and accessible throughout the community by transportation methods other than automobiles.
- (h) The PUD will respect or enhance the established or planned character, use, and intensity of development within the area of the Village where it is to be located.

#### **1254.07 Changes to PUD**

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Changes to an approved PUD shall be permitted only under the following circumstances:

- (a) *Notify Zoning Administrator.* The holder of an approved PUD final development plan shall notify the zoning administrator of any desired change to the approved PUD.
- (b) *Minor Change Determination.* Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified modifications imposed as part of the original approval. Minor changes shall include the following:
- (1) reduction of the size of any building and/or sign;
  - (2) movement of buildings and/or signs by no more than ten feet;
  - (3) landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
  - (4) changes in floor plans which do not alter the character of the use or increase the amount of required parking;
  - (5) internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design; or
  - (6) changes required or requested by the Village of Yellow Springs or other county, state or federal regulatory agency in order to conform to other laws or regulations.
- (c) *Major Change Determination.* A proposed change not determined by the zoning administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application for the final development plan. While not required, the Planning Commission may elect to hold a public hearing in which case the notification requirements of *Section 1280.03(e)* shall be followed.

**1254.08 Appeals**

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The Board of Zoning Appeals shall have no jurisdiction or authority to accept or consider an appeal from any PUD determination or decision, or any part thereof, nor shall the Board of Zoning Appeals have authority to grant variances for or with respect to a PUD or any part thereof.



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**1256.01 Purpose**

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- (a) The intent of the overlay districts is to establish regulations in addition to the applicable regulations of the existing (underlying) zoning districts that either supplement or replace those existing regulations. The overlay districts are applied in specific locations based on the environmental features or important characteristics of the area, regardless of the established zoning districts.
- (b) Two overlay districts are established, as described in this chapter. The boundaries of these districts shall be as described in the respective sections and shown on the zoning map. The requirements of this chapter are in addition to and shall supplement those imposed on the same lands by any underlying zoning provisions of this code or other codes of the Village of Yellow Springs. These regulations supersede all conflicting regulations of the underlying districts to the extent of such conflict.

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**1256.02 Floodplain Overlay District**

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- (a) *Purpose and Intent.*
  - (1) The Village of Yellow Springs has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, flood-proofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and achieve the public purposes, these regulations are adopted.
  - (2) It is the purpose of these regulations to promote the public health, safety and general welfare, and to:
    - A. Protect human life and health;
    - B. Minimize expenditure of public money for costly flood control projects;
    - C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
    - D. Minimize prolonged business interruptions;
    - E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
    - F. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
    - G. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
    - H. Minimize the impact of development on adjacent properties within and near flood-prone areas;
    - I. Ensure that the flood storage and conveyance functions of the floodplain are maintained;

- J. Minimize the impact of development on the natural, beneficial values of the floodplain;
  - K. Prevent floodplain uses that are either hazardous or environmentally incompatible; and
  - L. Meet community participation requirements of the National Flood Insurance Program.
- (b) *Methods of Reducing Flood Loss.* In order to accomplish its purposes, these regulations include methods and provisions for:
- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
  - (2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
  - (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
  - (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and
  - (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.
- (c) *Applicability.* These regulations shall apply to all areas of special flood hazard within the jurisdiction of the Village of Yellow Springs as identified in *Subsection (d)*, including any additional areas of special flood hazard annexed by the Village.
- (d) *Basis for Establishing Flood Hazard Areas.* For the purposes of these regulations, the following studies and/or maps are adopted:
- (1) Flood Insurance Study Greene County, Ohio and Incorporated Areas and Flood Insurance Rate Map Greene County, Ohio and Incorporated Areas both effective March 17, 2011.
  - (2) Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
  - (3) Any hydrologic and hydraulic engineering analysis authored by a registered professional engineer in the State of Ohio which has been approved by the Village as required by *Section 1256.02(v)*, Subdivisions and Large Developments.
  - (4) Any revisions to the above maps and/or studies are hereby adopted by reference and declared to be part of these regulations. These maps and/or studies are on file at the Village Municipal Building, Administration/Planning Office, Second Floor, 100 Dayton Street, Yellow Springs, Ohio.
- (e) *Abrogation and Greater Restrictions.* These regulations are not intended to repeal any existing ordinances, including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement, but the land subject to such interests shall also be governed by the regulations.
- (f) *Interpretation.* In the interpretation and application of these regulations, all provisions shall be:
- (1) Considered as minimum requirements;

- (2) Liberally construed in favor of the governing body; and
  - (3) Deemed neither to limit nor repeal any other powers granted under State statutes. Where a provision of these regulations may be in conflict with a State or Federal law, such State or Federal law shall take precedence over these regulations.
- (g) *Warning and Disclaimer of Liability.* The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the Village, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any lawfully made administrative decision.
- (h) *Responsibilities of the Flood Administrator.* A flood administrator shall be appointed by the Village Council to administer and implement these regulations. The duties and responsibilities of the flood administrator shall include but are not limited to:
- (1) Evaluate applications for permits to develop in special flood hazard areas.
  - (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
  - (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
  - (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
  - (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.
  - (6) Enforce the provisions of these regulations.
  - (7) Provide information, testimony, or other evidence as needed during variance hearings.
  - (8) Coordinate map maintenance activities and FEMA follow-up.
  - (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
- (i) *Floodplain Development Permits.* It shall be unlawful for any person to begin construction or other development activity including, but not limited to, filling, grading, construction, alteration, remodeling, or expanding any structure; or altering any watercourse wholly within, partially within, or in contact with any identified special flood hazard area until a floodplain development permit is obtained from the flood administrator. The floodplain development permit shall show that the proposed development activity conforms to the provisions of these regulations. No permit shall be issued until the requirements of these regulations have been met.

- (j) *Application.* An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. An application shall be made by the owner of the property or his or her authorized agent on a form furnished for that purpose prior to commencing construction. Where it is unclear whether a development site is in a special flood hazard area, the flood administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:
- (1) Payment of a fee in an amount as established by the Village Council.
  - (2) Site plan drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
  - (3) Elevation of the existing, natural ground where structures are proposed.
  - (4) Elevation of the lowest floor, including basement, of all proposed structures.
  - (5) Such other material and information as may be requested by the flood administrator to determine conformance with, and provide enforcement of these regulations.
  - (6) Technical analyses conducted by the appropriate design professional registered in the State of Ohio demonstrating the following, as applicable:
    - A. Floodproofing certification for nonresidential structures, as required in *Section 1256.02(w)(2)*.
    - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of *Section 1256.02(w)(1)E* are designed to automatically equalize hydrostatic flood forces.
    - C. Description of any watercourse alteration or relocation that the flood-carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in *Section 1256.02(x)(2)C*.
    - D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by *Section 1256.02(x)(2)*.
    - E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by *Section 1256.02(x)(1)*.
    - F. Generation of base flood elevation(s) for subdivision and large developments as required by *Section 1256.02(v)*.
- (k) *Permit Application Review.*
- (1) Complete Application. After receipt of a complete application, the flood administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be processed until all information required in *Section 1256.02(j)* has been received by the flood administrator.
  - (2) Other Permits. The flood administrator shall review all applications to assure that all necessary permits have been received from those Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including permits issued by the U.S.

Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

- (3) **Approval.** Within 30 days of receiving a complete application, the flood administrator shall either approve or disapprove the application. If an application is approved, a permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within 12 months. A floodplain development permit shall expire 12 months after issuance unless the permitted activity has been substantially begun and is being pursued to completion.
- (l) **Inspections.** The flood administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.
- (m) **Post-Construction Certification.** The following as-built certifications are required after a floodplain development permit has been issued:
- (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
  - (2) For all development activities subject to the standards of *Section 1256.02(p)(1)*, a Letter of Map Revision.
- (n) **Revocation of Floodplain Development Permit.** A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit. In the event of the revocation of a permit, an appeal may be taken to the Board of Zoning Appeals in accordance with *Section 1256.02(y)*.
- (o) **Permit Exemptions.** Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations. An application for a floodplain development permit shall not be required for:
- (1) Maintenance work such as roofing, painting, and basement sealing, or for small non-structural development activities (except for filling and grading) valued at less than five thousand dollars (\$5,000).
  - (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of O.A.C. 3701.
  - (3) Major utility facilities permitted by the Ohio Power Siting Board under Ohio R.C. Chapter 4906.
  - (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Ohio R.C. Chapter 3734.
  - (5) Development activities undertaken by a Federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management.
- (p) **Map Maintenance.**
- (1) **Requirement to Submit New Technical Data.** To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that Village flood maps, studies and other data identified in *Section 1256.02(d)* accurately represent flooding conditions so appropriate

floodplain management criteria are based on current data, the following map maintenance activities are identified:

- A. For all development proposals that impact floodway delineations or base flood elevations, the Village shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
    1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
    2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
    3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
    4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with *Section 1256.02(v)*.
  - B. It is the responsibility of the applicant to have technical data, required in accordance with *Section 1256.02(p)(1)*, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
  - C. The flood administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
    1. Proposed floodway encroachments that increase the base flood elevation; and
    2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
  - D. Floodplain development permits issued by the flood administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to *Section 1256.02(p)(1)A*.
- (2) Right to Submit New Technical Data. The flood administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or plan metric details. Such a submission shall include appropriate supporting documentation made in writing by the Village manager, and may be submitted at any time.
  - (3) Annexation/Detachment. Upon occurrence, the flood administrator shall notify FEMA in writing whenever the boundaries of the Village have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Village Flood Insurance Rate Map accurately represents the Village boundaries, include within such notification a copy of a map of the Village suitable for reproduction, clearly showing the new corporate limits or the new area for which the Village has assumed or relinquished floodplain management regulatory authority.

- (q) *Data Use and Map Interpretation.* The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:
- (1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the flood administrator shall review and reasonably utilize any other flood hazard data available from a Federal, State, or other source.
  - (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the flood administrator.
  - (3) When Preliminary Flood Insurance Rate Maps and/or a Flood Insurance Study have been provided by FEMA:
    - A. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.
    - B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
  - (4) The flood administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation, as provided in *Section 1256.02(y)*.
  - (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.
- (r) *Substantial Damage Determination.*
- (1) Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the flood administrator shall:
    - A. Determine whether damaged structures are located in special flood hazard areas;
    - B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
    - C. Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.
  - (2) Additionally, the flood administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These

measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures, materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with increased cost of compliance insurance claims.

- (s) *Use and Development Standards for Flood Hazard Reduction.* The use and development standards set forth in *Sections 1256.02(t) through 1256.02(w)* apply to development wholly within, partially within, or in contact with any special flood hazard area as established in *Section 1256.02(d) or 1256.02(q)(1)*.
- (t) *Use Regulations.*
- (1) Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the Village are allowed, provided they meet the provisions of these regulations.
  - (2) Prohibited Uses.
    - A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Ohio R.C. Chapter 3701.
    - B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Ohio R.C. Chapter 3734.
- (u) *Water and Wastewater Systems.* Public water and sanitary sewer systems shall be required.
- (v) *Subdivisions, Large Developments and PUDs.*
- (1) All development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
  - (2) All development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
  - (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or five acres, whichever is less.
  - (5) The applicant shall meet the requirement to submit technical data to FEMA in *Section 1256.02(p)(1)A.4* when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by *Section 1256.02(v)(4)*.
- (w) *Buildings, Structures and Vehicles.*
- (1) Residential Structures.
    - A. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for



anchoring and construction materials resistant to flood damage are satisfied.

- B. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
- C. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade or flood of record whichever is greater.
- E. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
  - 1. Be used only for the parking of vehicles, building access, or storage; and
  - 2. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters; or
  - 3. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- F. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- G. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of this *Section 1256.02(w)(1)*.
- H. In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide flood waters around and away from the structure.

(2) Nonresidential Structures.

- A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of *Section 1256.02(w)(1)A thru C and E thru H*.
  - B. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
    - 1. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
    - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Flood-proofing Certificate, that the design and methods of construction are in accordance with *Section 1256.02(w)(2)B.1 and 2*.
  - C. Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade or flood of record whichever is greater.
- (3) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:
- A. They shall not be used for human habitation;
  - B. They shall be constructed of flood-resistant materials;
  - C. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;
  - D. They shall be firmly anchored to prevent flotation;
  - E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
  - F. They shall meet the opening requirements of *Section 1256.02(w)(1)E.3*.
- (4) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:
- A. They shall not be located on sites in special flood hazard areas for more than 180 days in a calendar year; or
  - B. They must be fully licensed and ready for highway use.
- (5) Above-ground Gas or Liquid Storage Tanks. All above-ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (x) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood-carrying capacity of watercourses is minimized:

- (1) Development in Floodways.
- A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
  - B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
    - 1. Meet the requirements to submit technical data in *Section 1256.02(p)(1)*;
    - 2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
    - 3. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
    - 4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
    - 5. Concurrence of the Village Manager of Yellow Springs and the chief executive officer of any other communities impacted by the proposed actions.
- (2) Development in Riverine Areas with Base Flood Elevations but No Floodways.
- A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than one foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or
  - B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
    - 1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
    - 2. *Section 1256.02(x)(1)B.1, 3, 4, and 5.*
  - C. Alterations of a Watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the *USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique* or other applicable publication

available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

1. The bankfull flood-carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bank full flood-carrying capacity of the watercourse will not be diminished.
2. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
3. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood-carrying capacity will not be diminished. The flood administrator may require the permit holder to enter into an agreement with the Village specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
4. The applicant shall meet the requirements to submit technical data in *Section 1256.02(p)(1)A.3* when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(y) *Variances.* Any person believing that the use and development standards of these regulations would result in practical difficulty may file an application for a variance. The Board of Zoning Appeals shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) Application.

- A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the flood administrator, who upon receipt of the variance shall transmit it to the Board of Zoning Appeals.
- B. Such application at a minimum shall contain: name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
- C. All variance applications shall be accompanied by a fee set in the schedule of fees adopted by the Village Council.

(2) Public Hearing. At the hearing the applicant shall present all statements and evidence as the Board of Zoning Appeals requires. In considering variance applications, the Board shall consider and make findings of fact on all

evaluations, all relevant factors, standards specified in other sections of these regulations and the following criteria:

- A. The danger that materials may be swept onto other lands to the injury of others.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- D. The importance of the services provided by the proposed facility to the community.
- E. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- F. The necessity to the facility of a waterfront location, where applicable.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(3) Decision Factors. Variances shall only be issued upon:

- A. A showing of good and sufficient cause.
- B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
- D. A determination that the structure or other development is protected by methods to minimize flood damages.
- E. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Conditions. Upon consideration of the above factors and the purposes of these regulations, the Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

(5) Other Considerations.

- A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size

contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided items in *Section 1256.02(y)(2)* have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

- C. Any applicant to whom a variance is granted shall be given written notice that the structure's lowest floor elevation will not meet the requirements of this section and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) Procedure at Hearings.

- A. All testimony shall be given under oath.
- B. A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
- C. The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
- D. The flood administrator may present evidence or testimony in opposition to the appeal or variance.
- E. All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- F. Evidence that is not admitted may be proffered and shall become part of the record for appeal.
- G. The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- H. The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

- (7) Appeals to Court. Those aggrieved by the decision of the Board of Zoning Appeals may appeal the decision to the Greene County Court of Common Pleas, as provided in Ohio R.C. Chapter 2506.

(z) Violations.

- (1) Compliance Required. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in *Section 1256.02(o)*. Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with *Section 1256.02(z)(4)*.
- (2) Conformance With Approved Plans. Floodplain development permits issued on the basis of plans and applications approved by the flood administrator authorize only the use, and arrangement, set forth in the approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with *Section 1256.02(z)(4)*.
- (3) Notice of Violation. Whenever the flood administrator determines there has been a violation of any provision of these regulations, he shall give notice of that

violation to the person responsible and the property owner, if different from the person responsible, and order compliance with these regulations. The notice shall be served in person; provided, this notice and order shall be deemed to be properly served if a copy is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the structure affected. The notice and order shall:

- A. Be put in writing on an appropriate form;
  - B. Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
  - C. Specify a reasonable time for performance; and
  - D. Advise the owner, operator, or occupant of the right to appeal.
- (4) **Penalties.** Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with the requirements shall, upon conviction, be fined or imprisoned as provided by the laws of the Village of Yellow Springs. Each day a violation continues shall be considered a separate offense. Nothing contained in this section shall prevent the Village of Yellow Springs from taking other lawful action, as necessary, to prevent or remedy a violation.

### **1256.03 Gateway Overlay District**

- (a) **Purpose.** The purpose of the Gateway Overlay District is to establish and protect the character of the Village at key entry points.
- (b) **Applicability.** The regulations of this section shall apply to all property within the specified boundaries having frontage along the following streets. However, agricultural uses and single family dwellings are exempt from these requirements, but shall conform if the use changes to a non-agricultural or non-single family use.
  - (1) US 68 (Xenia Avenue), from the southern Village boundary, north to Allen Street;
  - (2) Dayton/Yellow Springs Road, from the western Village boundary, east to Kenneth Hamilton Way (including the south side of Dayton/Yellow Springs Road; and
  - (3) US 68 (Xenia Avenue), from the northern Village boundary, south to Corry Street.
- (c) **Permitted Uses.** All permitted and conditional uses allowed in the underlying zoning district shall be allowed within the overlay district, except for the following:
  - (1) Mini-warehousing and self-storage facilities, and
  - (2) Sexually oriented businesses
- (d) **Dimensional Requirements.** The minimum setback, height, width and area requirements of the underlying district shall apply, except as specifically modified in this section.
- (e) **Design Standards.**
  - (1) **Landscaping.** All sites shall be landscaped, as applicable, in accordance with the provisions of *Chapter 1270*. In addition, a front yard greenbelt, the depth of which shall be at least 20 feet, shall be provided in accordance with the

- requirements of *Section 1270.02*. For corner lots, the required front yard intersecting street frontage for a distance of at least 50 feet from the intersection.
- (2) Signs. The requirements of *Chapter 1266* shall be met, as applicable to the underlying zoning district; provided, pole signs shall not be permitted.
  - (3) Buildings. Buildings and structures within the overlay district shall not exceed two stories or 30 feet in height.
  - (4) Parking. All parking shall be located in the side or rear yard and shall be setback a minimum of ten feet from the property line. Except for necessary drives, the front yard shall be landscaped in accordance with the requirements of *Subsection (e)(1)*.
- (f) *Accessibility*.
- (1) A maximum of one driveway for each lot or parcel shall be permitted along any abutting street. Where practical, shared driveways shall be encouraged between two or more properties to minimize the number of access points along major entrances into the village.
  - (2) No driveway shall be located within 100 feet of another driveway on the same side of the street and no closer than 125 feet from another driveway on the opposite side of the street, measured centerline to centerline.
  - (3) In any case, no driveway shall be located within 150 feet of a street intersection, measured from pavement edge to pavement edge.
  - (4) A sidewalk or pathway, as specified by the Planning Commission, shall be constructed along the entire frontage of the lot or parcel. Sidewalks shall be a minimum of five feet wide and pathways shall be a minimum of eight feet wide, constructed according to Village standards.
  - (5) Greenbelt shall be established and maintained along the frontage, and shall not include any land in the public right-of-way.



# 1258

## Chapter 1258 Schedule of District Uses

### 1258.01 District Uses

The following table summarizes the uses allowed within the respective zoning districts, either as permitted or conditional uses.

Table 1258.01 Schedule of Uses by District										
Use	C	E-I	RA	RB	RC	B-1	B-2	I-1	I-2	Specific Conditions
<b>Accessory Uses</b>										
Accessory buildings, structures and uses	P	P	P	P	P	P	P	P	P	1260.04
Accessory dwelling unit			C	C	C					1262.08(e)(1)
Cafeteria facilities located within a principal use		P						P	P	
Caretaker residence		P						C	C	
Child care facilities located within a principal use		P						C	C	
Corporate offices incidental to the principal use								P	P	
Day care - Family			P	P	P					
Day care - Group		C	C	C	C					
Home occupations <sup>1</sup>		C	C	C	C	C				See footnote 1
Outdoor patio seating in conjunction with a permitted restaurant		P				C	C	C	C	
Outdoor storage related to a principal use		C						C	C	
Retail incidental to the manufacture or production of goods on the premises, not exceeding 30 percent of the total floor area of the principal building								C	C	
Vehicle wash facilities for trucks and trailers								P	P	
<b>Agricultural and Animal-Related Uses</b>										
Agribusiness		C						C	P	
Breweries, distilleries and bottling plants								P	C	
Community gardens	P	P	P	P	P					
Farm, including raising animals		C	C	C	C			C	C	
Food processing plants		C						C	P	
Greenhouse/nursery (not including retail sales)		P						C	P	
Kennels								C		

<sup>1</sup> Home occupations are permitted in all Residential Districts and the E-I and B-1 Districts, subject to issuance of a permit by the zoning administrator to verify compliance with the conditions of Section 1262.08(e)(5).

Table 1258.01 Schedule of Uses by District

Use	C	E-I	RA	RB	RC	B-1	B-2	I-1	I-2	Specific Conditions
Produce and other food products terminals								C	P	
Riding stables	C	C								
Veterinary clinics					C		C			
<b>Commercial Services</b>										
Business machine sales & service							P	P		
Cleaning services							P	P		
Electric, plumbing supplies sales & service						P	P	P		
Glass sales & service							P	P		
HVAC sales & service							P	P		
Locksmith shops							P	P		
Machinery and equipment sales & service							P	P	P	
Mail order businesses and fulfillment centers							P	P	P	
Pest control services							P	P		
Petroleum products sales							C	P		
Printing, photocopying and publishing services		P				P	P	P	P	
Repair shops (non-automotive)							P	P		
Tool and equipment rental							P	P		
<b>Construction</b>										
Building material and lumber supply, including lumber yards								C	P	
Contractors' offices and shops (not including outdoor storage)								P	P	
Landscaping services								C	P	
<b>Educational</b>										
Administrative offices		P								
Auditorium buildings		P								
Classroom buildings		P								
Commercial schools and studios including art, dance, martial arts, and music		P				P	C	C		
Schools (elementary, middle, high)			C	C	C					1262.08(c)(2)
Trade schools								P	P	
Training centers, engineering or sales								P	P	
<b>Food, Drink, Entertainment and Hospitality</b>										
Bars, taverns, clubs and restaurants serving alcoholic beverages		C				C	C	C		
Bed and breakfasts		C	C	C	C	C				1262.08(e)(2)
Brew pubs and similar establishments		C				C	C	C		
Farmers Market		P				C	C	C		
Hotels and motels		C				C	C			
Internet sweepstakes café							C			
Mobile vending (food trucks)						C		C	C	
Restaurants, excluding drive-in or drive-thru facilities		C				P	P	C		

<b>Table 1258.01 Schedule of Uses by District</b>										
<b>Use</b>	<b>C</b>	<b>E-I</b>	<b>RA</b>	<b>RB</b>	<b>RC</b>	<b>B-1</b>	<b>B-2</b>	<b>I-1</b>	<b>I-2</b>	<b>Specific Conditions</b>
Sexually oriented businesses								P		1262.08(d)(3)
<b>Health Care and Social Assistance</b>										
Hospitals							C			
Medical and dental laboratories							C	C	C	
Medical and dental offices and clinics		C				C	P			
<b>Manufacturing</b>										
Building material manufacturing including milling, planning and joining								C	C	
Chemical manufacturing and storage								C	C	1262.08(b)(1)
Machine, sheet metal and welding shops								C	C	
Manufacturing, compounding, processing, packaging, treating or assembly from previously prepared materials								P	C	
Metal stamping, pressing and buffing								C	C	
Paint, rust proofing and rust coating								C	C	
Tool and die shops								C	C	
<b>Offices and Financial Services</b>										
Banks, credit unions and similar financial institutions, excluding drive in and drive-thru facilities		P				P	P			
Offices for executive, administrative, professional, real estate, accounting and similar professional activities		P		C	C	P	P	P		
<b>Personal Services</b>										
Day care, nursery schools and child care establishments		P				P	P			
Health and fitness clubs		P				P	P			
Personal service establishments such as barber and beauty shops, tailors, photo studios, shoe repair and watch repair						P	P			
Tattoo parlor						P				
<b>Public/Quasi-public</b>										
Cemeteries (green burial method only)	C									
Churches and customary related uses		P	C	C	C	C	P			1262.08(c)(1)
Government offices, buildings and facilities	P	P	C	C	C	P	P	P	P	
Libraries		P			C	C				
<b>Recreation and Leisure</b>										
Art galleries, museums and similar cultural facilities		P				P				
Assembly and performance halls		P				C				
Ball fields		C								
Community centers and senior centers		P				P				
Cultural buildings		P			C	C				
Field house		C								

**Table 1258.01 Schedule of Uses by District**

Use	C	E-I	RA	RB	RC	B-1	B-2	I-1	I-2	Specific Conditions
Forest and wildlife preserves	P	P								
Golf courses and country clubs		C								
Indoor commercial recreation such as theaters, bowling lanes and skating rinks		C				C	C			
Interpretive Centers	P	P								
Natatorium		P								
Outdoor commercial recreation such as mini-golf and batting cages							C			1262.08(d)(1)
Public parks/playgrounds/recreation areas	C	P	C	C	C					
Stadium		C								
<b>Research and Technical Facilities</b>										
Research, development and testing laboratories and facilities		P						P	P	
<b>Residential</b>										
Boarding homes					C					1262.08(e)(3)
Continuing care retirement community		C		C	C					
Dormitories		P								
Dwellings, Attached single family		C		P	P					
Dwellings, Multiple-family		C		C	P					
Dwellings, Single family detached		C	P	P	P	P				
Dwellings, Two-family		C		P	P					
Dwelling units on the upper floors of buildings with non-residential uses at street level						C				1262.08(e)(4)
Short-term rental units		C	C	C	C	C	C			1262.08(e)(6)
<b>Retail</b>										
Artisan shops, such as glass blowers, metal sculptures, wood carvers and weavers producing their goods and selling them for retail on premises						C	P	C		
Bicycle sales, rental and repair						P		C		
Building supply and equipment sales, not including lumber yards							C			
General retail catering to the needs of the community, but less than 10,000 square feet of UFA		C				P	P			
General retail of 10,000 square feet UFA or more						C	P			1262.08(a)(3)
Outdoor market or covered bazaar		P								
Showrooms for home improvements, decorating and similar items, not including outdoor storage						P	P			
<b>Transportation and Warehousing</b>										
Bottled gas storage and distribution								C	C	
Cartage, express and parcel delivery facilities								C	C	1262.08(f)(1)
Heliports and helipads		C						C	C	

**Table 1258.01 Schedule of Uses by District**

Use	C	E-I	RA	RB	RC	B-1	B-2	I-1	I-2	Specific Conditions
Mini-warehouse, self-storage facilities								C		1262.08(f)(2)
Storage of hazardous materials		C							C	1262.08(b)(1)
Warehouses and distribution centers								C	P	1262.08(f)(1)
Wholesale businesses								C	P	
<b>Utilities</b>										
Public utility buildings								P	P	
Solar facilities (non-residential)		C						P	P	
Telephone exchange buildings								P	P	
Utility and public service buildings, not including outdoor storage							P			
Utility substations								P	P	
Wind energy conversion systems(single accessory)		C						C	C	
Wind energy conversion systems (commercial)		C								
Wireless communication facilities and towers	C	C						C	C	1262.08(g)(1)
<b>Vehicle Sales, Service and Related</b>										
Drive-in and drive-thru facility for banks, pharmacies, restaurants and dry cleaners						C	C			1262.08(a)(1) and 1262.08(d)(2)
Sales of new and used vehicles, boats, farm implements and similar vehicles and equipment							C			1262.08(h)(1)
Sale of vehicle parts, not including installation/repair							P			
Truck and heavy equipment repair									C	
Truck and trailer rental							C	C		
Vehicle and equipment rental							C	C		
Vehicle repair, major							C	C		1262.08(h)(2)
Vehicle repair, minor							C	C		1262.08(h)(3)
Vehicle service stations							C	C		1262.08(h)(4)
Vehicle wash facilities							C	C		1262.08(h)(5)
<b>Waste Processing and Disposal</b>										
Recycling collection and/or processing facility (non-hazardous)		C							C	
<b>Other</b>										
Mortuaries and funeral homes						C	C			1262.08(a)(2)
Outdoor market or covered bazaar		P								
Radio, television and recording studios		P				C	P	P	P	
Uses similar to other uses permitted in this district and consistent with the purpose of the district, as determined in accordance with Section 1242.06.	C	C	C	C	C	C	C	C	C	1242.06

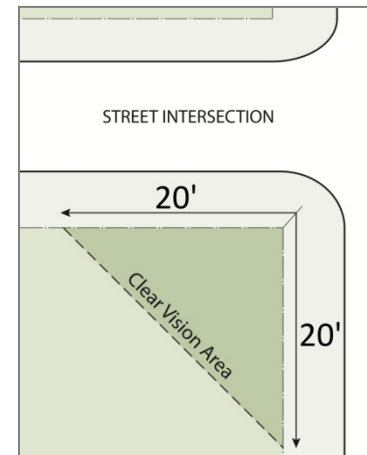
**1260.01 Buildings and Structures**

- (a) *Fences and Walls.* Notwithstanding other provisions of this zoning code, fences, walls and foliage are permitted in required yards under the following conditions:
- (1) The height shall not exceed four feet in the front yard, including both front yards of a corner or through lot, except within the clear vision triangle (see *Section 1260.02(b)*) which shall be three feet.
  - (2) Fences, walls and foliage adjacent to any public sidewalk shall be set back at least one foot from the inside of the sidewalk.
  - (3) Visibility into and out of any driveway or street shall remain unobstructed.
  - (4) Within a side or rear yard in a Residential District, no fence or wall shall be permitted to exceed a height of six feet, measured from the natural grade to the uppermost portion of the fence.
  - (5) In Residential Districts, if both sides of the fence are not identical, the finished side shall face the adjoining property.
  - (6) Fences in nonresidential districts shall be permitted up to eight feet in height, provided for each foot exceeding six feet, there shall be a one and one-half foot setback from side property lines.
  - (7) Barbed wire or electrically charged fences may be erected in nonresidential districts, provided the electrically charged or barbed section of the fence shall be no lower than seven feet above grade.
  - (8) Fences, walls or foliage erected or maintained above or within utility easements shall be subject to removal, as necessary, to provide access to such easements.
- (b) *Temporary Buildings and Structures.*
- (1) Construction buildings and structures, including trailers, incidental to construction work on a lot, may be placed on that lot, subject to the following:
    - A. Construction buildings and structures may only be used for the storage of materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities related to construction activity on the lot. An enclosure structure for temporary sanitation facilities shall be required on all construction site.
    - B. No construction building or structure shall be used as a dwelling unit.
    - C. A permit shall be obtained from the zoning administrator prior to installation of a construction building or structure.
    - D. Construction buildings and structures shall be removed from the site within 15 days after an occupancy permit is issued by the zoning administrator for the permanent structure on the lot, or within 15 days after the expiration of a building permit issued for construction on the lot.
  - (2) Sales offices or model homes may be placed on a lot subject to the following:
    - A. A permit shall be obtained from the zoning administrator prior to installation or construction. The permit shall specify the location of the office and shall be valid for a period of up to one year. A temporary permit may be renewed by the zoning administrator for up to two

- successive one year periods of less at the same location, if it is determined that the temporary building is still incidental and necessary.
- B. Only transactions related to the development in which the temporary building is located shall be conducted within the building. General offices for real estate, construction, development or other related businesses associated with the project shall not be permitted.
- (c) *Unlawful Buildings and Uses.* Any building, use or lot which has been unlawfully constructed, occupied or created prior to the date of adoption of this code shall continue to be unlawful, unless expressly permitted by this zoning code. Such buildings, uses or lots shall not be considered to be nonconforming and are not entitled to any consideration under the provisions of *Chapter 1282*.

## 1260.02 Dimensional Provisions

- (a) *Average Front Setback.* The minimum front setback requirements for a principal building in any Residential District may be reduced in accordance with the following:
- (1) Where two or more lots entirely or partially within 200 feet of a subject lot, on the same side of the street and the same block, are occupied by principal buildings whose existing front setback is less than required by the zoning district, the average of the established setbacks for those buildings shall be the minimum required front setback for the subject lot.
  - (2) In no case, however, shall the front yard setback for a garage, whether attached or detached, be less than 20 feet in order to provide adequate vehicle parking space in front of the garage without blocking a sidewalk or otherwise impeding pedestrian movement.
- (b) *Clear Vision Corner.* Fences, walls, structures, shrubbery or other potential obstructions to vision, except utility poles, lights and street signs, shall not be permitted to exceed a height of three feet within a triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines 20 feet from the point of intersection with the right-of-way lines.
- (c) *Cul-de-sac Lots.* In the case of lots abutting the turn-around radius of a cul-de-sac street, the minimum required lot width shall be measured at the required front setback line; provided all such cul-de-sac lots shall have a minimum width of 40 feet at the front lot line.
- (d) *Height Exceptions.* Height limits specified elsewhere in this zoning code shall not apply to:
- (1) Churches, schools, hospitals and public buildings including, but not limited to: libraries, museums, art galleries, fire stations or public buildings of a cultural, recreational or administrative nature.
  - (2) Barns, silos or other buildings or structures on farms; church spires, belfries, cupolas and domes; monuments; transmission towers; windmills; chimneys; smokestacks; flagpoles; and radio towers, masts and aerials. These structures shall be limited to 100 feet in height in any case, unless otherwise permitted in this code.



- (3) Structures needed as part of an industrial facility where the manufacturing process requires a greater height; provided, however, that all such structures shall be limited to 25 percent of the area of the lot and shall meet all yard setback requirements for a principal building, but in no case less than 25 feet.
- (e) *Minimum Lot Frontage.* Any lot created after the effective date of this code shall have frontage on an improved public street or approved private street or access easement, equal to the minimum required lot width in the zoning district in which it is located.
- (f) *Required Yards or Lots.* No lot or lots in common ownership and no yard, court, parking area or other space shall be so divided, altered or reduced as to make the area or space less than the minimum size required by this code. If already less than the minimum size required, the area or space shall not be further divided or reduced.

### **1260.03 Parking and Storage**

- (a) *Outdoor Storage.* Outdoor storage of merchandise, equipment, supplies, products or other materials shall only be permitted in those districts and under the conditions specifically authorized by this code. Storage of household items in Residential Districts is permitted in the rear yard only and if not in violation of other laws (nuisance, litter and trash).
- (b) *Recreational Vehicle Parking.* It shall be unlawful for any person to park or cause to be parked any mobile home or recreational vehicle on any street, alley, highway, or other public place in the Village and to use the same as a dwelling. This provision shall not prohibit the temporary occupancy for periods up to 72 hours of a recreational vehicle; provided the recreational vehicle contains sleeping accommodations, is parked on a lot in a Residential District, and is for the use of the owner of that lot or guests of the owner.
- (c) *Storage and Repair of Vehicles.*
  - (1) The repair, restoration and maintenance of vehicles in any Residential District, shall be conducted entirely within an enclosed building, except for those activities that can be and are completed in less than 7 days. All such repair shall take place on private property and may not be conducted within the public right-of-way.
  - (2) It shall be unlawful for the owner, tenant or lessee of any building or lands within the Village to permit the open storage or parking of any inoperable motor vehicle, machinery or equipment, or parts thereof, outside of an enclosed garage or enclosed building, for a period of more than 48 hours. An inoperable motor vehicle for purposes of this subsection shall include motor vehicles which, by reason of dismantling, disrepair or other cause, are incapable of being propelled under their own power, or are unsafe for operation on the streets and highways of this state because of the inability to comply with the State Motor Vehicles and Traffic Code, or do not have a current license and registration, as required for operation by the State Motor Vehicles and Traffic Code.
  - (3) It shall be unlawful for the owner, tenant or lessee of any lot or building in a Residential District to permit the open storage or parking outside of a building of semi-truck tractors and/or semi-truck trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked for purposes of construction being conducted on that lot.



**1260.04 Uses**

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- (a) *Accessory Buildings and Structures.*
- (1) Accessory buildings or garages shall be considered to be part of the principal building and subject to all setback requirements of the principal building, if structurally and architecturally integrated into the building or if attached by an enclosed breezeway or similar enclosed structure not greater than ten feet in length. Detached accessory buildings shall be located at least ten feet from any principal building.
  - (2) Accessory buildings and structures shall not be erected in any front yard.
  - (3) Accessory buildings and structures may be erected in a rear yard if set back at least ten feet from the rear and five feet from the side property lines. In any case, accessory buildings and structures shall not occupy more than 30 percent of the required rear yard.
  - (4) An accessory building or structure designed for and containing a vehicle entrance to be accessed from an existing publicly dedicated and commonly used alley may be located on the rear lot line, if parking space plans have been approved by the zoning administrator.
  - (5) The height of an accessory structure shall not exceed eighteen feet when a hip or gable roof is used, fifteen feet when a mansard or gambrel roof is used and twelve feet when a flat or shed roof is used, except when a dwelling unit is included in the structure, in which case the height shall not exceed twenty-four feet.
  - (6) Accessory structures shall not exceed 50 percent of the principal building floor area or 750 square feet, whichever is less.
  - (7) An accessory building or accessory structure shall not be constructed or occupied on a lot before the principal building or use on the lot is constructed.
  - (8) Accessory buildings and structures in planned unit developments shall be subject to the same requirements as in the Residential Districts.
  - (9) Accessory structures located in a designated flood hazard area shall comply with the additional provisions set forth in *Chapter 1282*.
  - (10) Swing sets, playground equipment, garden trellises, well-head covers and similar above-ground yard equipment accessory to a residential use shall be exempt from the provisions of this zoning code, except for height limitations, or unless specific provision is made for such equipment by Village ordinance.
  - (11) Buildings and structures accessory to non-residential uses shall meet the minimum setback requirements and height limitations for principal buildings in the respective zoning district.
  - (12) Accessory structures and buildings shall share all public utilities (water/sewer/electric) with the principal building. Accessory structures and buildings will not be separately metered.
- (b) *Essential Services.* The installation and maintenance of essential service equipment is exempt from this zoning code.
- (c) *Illegal Dwellings.* The use of any basement for dwelling purposes is prohibited in any zoning district, unless the basement meets the appropriate Village building codes. Buildings erected as garages or accessory buildings shall not be occupied for dwelling purposes, except in conformance with the requirements of *Section 1262.08(e)(1)* for accessory dwellings.

- (d) *Principal Use per Lot.* A lot or parcel shall not be devoted to more than one principal use, or contain more than one principal building, except for groups of multiple family dwellings, agricultural buildings, approved mixed use developments, PUDs, or commercial or industrial buildings determined by the Planning Commission to be a principal use collectively, based on meeting all of the following criteria:
- (1) individual buildings share common parking areas, signs, access and similar features;
  - (2) buildings are under single ownership;
  - (3) individual activities support one another (such as auto sales/vehicle repair or gas station/restaurant/convenience store); or
  - (4) buildings are architecturally unified and compatible.
- (e) *Prohibited Uses.* Uses not specifically permitted by right or conditional approval by this zoning code shall be prohibited.
- (f) *Uses in Conformance.* No building, structure or land shall be used or occupied and no building, structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered unless in conformity with the provisions of this code.
- (g) *Uses on a Lot.* Every building, structure or use erected or established within the Village shall be located on a legally recorded lot or parcel and shall conform to all applicable requirements of this code.

#### **1260.05 Other Provisions**

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- (a) *Control of Heat, Glare, Fumes, Noise, Odor, Dust and Vibration.* Every use shall be conducted and operated in a way that does not create a nuisance and is not dangerous by reason of heat, glare, fumes, odor, dust, noise or vibration beyond the lot on which it is located.
- (b) *Trash, Litter and Junk.* It shall be unlawful for any person to accumulate, place, store or allow or permit the accumulation, placement or storage of trash, litter or junk on premises in the Village, except in a lawful sanitary landfill.
- (c) *Voting Place.* The provisions of this code shall not be construed in any manner that would interfere with the temporary use of any property as a voting place in connection with any public election conducted by a duly authorized Board of Elections.
- (d) *Lighting.* All light fixtures shall be direct cut-off fixtures, designed to prevent light spill or trespass beyond the boundaries of the property where the fixture is located.
- (e) *Stormwater.* When land is developed or redeveloped and/or the surface characteristics of the property change (increased impervious surfaces, site grading, etc.), these activities shall not result in additional stormwater runoff flowing to adjacent properties.

**1262.01    Purpose**

Conditional uses are uses of land specifically permitted within a zoning district only with the approval of the Planning Commission, following a review of the use and its potential impact on its surroundings. These uses are generally consistent with the purpose of the zoning district in which they are permitted but, due to unique operational characteristics, may not be desirable or compatible in all locations within the district. Factors such as traffic, hours of operation, noise, odor or similar potential nuisance effects require that the conditional use be evaluated relative to its appropriateness on a case-by-case basis. This chapter establishes the review procedure for conditional uses and the general standards that must be met for all conditional uses. In addition, more specific requirements are established for certain individual uses, as necessary, to mitigate their potential negative impacts.

**1262.02    Procedures**

Applications for conditional uses shall be considered by the Planning Commission in accordance with the following procedures:

- (a) *Application.* An application for conditional use approval shall be made to the Planning Commission in writing, on a form for that purpose, and shall be filed with the zoning administrator at least twenty days before the next regularly scheduled meeting at which it is to be heard. The application must be accompanied by a fee, as established by the Village Council, a site plan in accordance with the requirements of *Chapter 1268* and such other material as the commission determines necessary.
- (b) *Public Notice.* When an application has been filed in proper form with the required data, the clerk of Council shall cause notice of the time, place and purpose of the hearing to be given, in writing by first class mail, to the applicant(s), to owners of property contiguous to and directly across the street from the property that is the subject of the conditional use application. The notice shall be given at least seven days in advance of the hearing, noting the request and the property location. The name and address of any property owner on the most recent property record of the Greene County Auditor shall be the address used for public notification. If the address is unclear or uncertain, the property owner may be notified by legal notice published one time at least seven days in advance of any hearing, listing the address of the property to receive notification.
- (c) *Sign.* At least ten days prior to the scheduled public hearing, a temporary sign six square feet in area shall be posted on the property subject to a conditional use request. The sign shall be removed within three days following the public hearing at which the request was heard. The sign shall contain the following information:
  - (1) The specific request being made,
  - (2) Date of the public hearing,
  - (3) Location of the public hearing, and
  - (4) Location where additional information may be obtained regarding the request
- (d) *Representation.* The applicant shall appear at the public hearing in person or by agent. If the applicant or authorized representative is not present, no action shall be taken by the Planning Commission on that application.

- (e) *Record of Proceedings.* The Planning Commission shall keep minutes of its proceedings showing the action of the commission and the vote of each member or, if absent or failing to vote, indicating such fact. The commission shall act by resolution.
- (f) *Required Vote.* The concurring vote of three Planning Commission members shall be necessary to approve a conditional use application.
- (g) *Review Criteria.* The Planning Commission shall review the application in relation to the general standards of this chapter for conditional uses, as provided in *Section 1262.03*, and any specific standards required for the use proposed, as identified in this chapter.

### **1262.03 General Standards**

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Any request for a conditional use shall only be approved upon a finding that each of the following general standards is satisfied, in addition to any applicable requirements pertaining to the specific use:

- (a) The proposed use will be consistent with the intent and purposes of this zoning code and the vision, goals and recommendations of the Yellow Springs Comprehensive Plan and *Vision: Yellow Springs and Miami Township*.
- (b) The proposed use will comply with all applicable requirements of this code, except as specifically altered in the approved conditional use.
- (c) The proposed use will be compatible with the character of the general vicinity.
- (d) The area and proposed use will be adequately served by essential public facilities and services, as applicable, such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools. The applicant or landowner will be required to install public utilities, streets or other public infrastructure as required by the Village, state or other agencies to applicable specifications. Dedication of said public infrastructure may be required.
- (e) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the zoning district.
- (f) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (g) The proposed use will not block sight lines from the right of way to existing signs or windows on the front or side of a building.

### **1262.04 Conditions of Approval**

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Reasonable conditions may be imposed on the approval of a conditional land use in order to achieve the following:

- (a) Insure public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads necessitated by the proposed use.
- (b) Insure that the use is compatible with adjacent conforming land uses and activities.
- (c) Protect natural resources; the health, safety, and welfare; and the social and economic well being of those who will use the land use or activity under consideration; residents,

business owners and landowners immediately adjacent to the proposed use or activity; and the community as a whole.

- (d) Relate to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (e) Meet the purpose of the zoning code, be in compliance with the standards established in the code for the land use or activity under consideration, and be in compliance with the zoning district standards.

### **1262.05 Expiration**

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Approval of a conditional use shall expire 12 months after it is granted, unless construction is complete or commencement of the use has begun. The Planning Commission may, upon written request by the applicant, extend the term of the conditional use approval by one additional period of up to 12 months upon a finding that there have been no changed conditions in the area which would require reconsideration of the conditional use application or site plan. A request for an extension of the initial permit period shall be submitted in writing to the zoning administrator prior to the expiration of the initial approval.

### **1262.06 Revocation**

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If a violation of any of the conditions or standards imposed on a conditional land use is found to exist, the zoning administrator shall notify the owner of the premises, the Planning Commission and the Village manager that a violation exists and that the permit will be revoked within 15 days of notification. If the violation is not corrected within 15 days, the Village manager shall revoke the permit. Furthermore, the violation shall be declared by the Village manager to be a violation of the zoning code, subject to all of the remedies and penalties provided for in this code.

### **1262.07 Performance Guarantees**

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To assure compliance with this code and any conditions of approval, performance guarantees may be required by the Planning Commission, as authorized by *Section 1272.04*.

### **1262.08 Specific Requirements**

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In addition to the general standards of *Section 1262.03* applicable to all conditional uses, additional requirements may be applicable to specific conditional uses and shall be satisfied in order to obtain approval. Conditional uses for which added requirements apply are:

- (a) *Commercial.*
  - (1) Drive-through Businesses, Excluding Restaurants.
    - A. The drive up or drive through facility must be attached to a building; except that an automated teller machine may be in a stand-alone structure with a canopy or similar roof to protect users from the elements.
    - B. The facility shall be screened from any adjacent residential district or use and lighting shall be limited and fully shielded to prevent glare and light trespass.
    - C. Drive-through and stacking lanes and parking lot access shall be clearly identified and delineated.
    - D. A drive-through shall have an escape lane to allow a vehicle to pass those waiting to be served.

- E. All drive-through service windows shall be located on the side or rear of the building to minimize visibility from any abutting street.
- F. Amplified speakers and sound equipment shall be located at least 50 feet from any adjoining residential property. Additional landscaping and fencing shall be installed between such equipment and the adjoining residential property to minimize associated noise impacts.
- G. At least three stacking spaces shall be provided per each drive through lane.

(2) Mortuaries and Funeral Homes.

- A. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
- B. Minimum lot area shall be one acre and minimum lot width shall be 150 feet.
- C. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
- D. Access driveways shall be located no less than 100 feet from the centerline of the intersection of any street or other driveway.

(3) Retail of 10,000 Square Feet or More.

- A. The building and site design shall be compatible with and complementary to the established character of the district with respect to scale, height, bulk, setbacks, building materials and pedestrian and bicycle transportation amenities.
- B. Off-street parking areas shall be designed to minimize their visibility and obtrusiveness from the adjacent street(s).
- C. No new driveways or other means of vehicular access shall be permitted on Xenia Avenue between Limestone and Corry Streets.

(b) *Industrial.*

(1) Chemical Manufacturing and Storage.

- A. As part of the conditional use application, the applicant shall provide documentation, reports, studies and other materials required by the Village specifying the materials to be handled, safety measures, existing soil conditions, methods of protecting groundwater and all other information required by the Village in the course of reviewing the proposed use and its location.
- B. The facility shall at all times operate according to all applicable local, Greene County, State of Ohio and federal regulations.
- C. Adequate safety measures shall be implemented and in use at all times.
- D. There shall be no storage of hazardous materials outdoors, except in tanks or containers designed for that purpose that are inaccessible to anyone not authorized to process or handle such materials, and that meet all applicable safety regulations.
- E. The applicant shall provide a disaster mitigation plan and fire pre-plan, approved by the appropriate authorities, as part of the application for a conditional use.
- F. Truck routes to and from the facility shall be subject to approval.

(c) *Public/Quasi-Public.*(1) Churches, Places of Worship, Schools (elementary, middle and high).

- A. The use shall have frontage on and direct access to an arterial or collector street. Secondary access to a local street may be permitted if the applicant provides evidence satisfactory to the Planning Commission that the added traffic will not have a negative impact on the surrounding neighborhood.
- B. All outdoor activity, parking areas and recreational space shall be screened from adjacent property in any residential district.
- C. Exterior lighting shall be ninety degree style cut-off fixtures, directed away from adjacent property and the public right-of-way.
- D. Parking areas shall not be located within the required front setback area and the building setback shall be consistent with the established average setback of adjacent properties, as provided in *Section 1260.02(a)*.

(d) *Recreation/Food/Entertainment.*(1) Mobile Vending (Food Trucks).

- A. Food trucks may be permitted to operate within the B-1, E-1 and I-2 zoning districts.
- B. The food truck shall be located only within an approved off-street parking lot; provided, the food truck shall not displace any required parking spaces.
- C. The food truck shall not be located closer than ten feet to any driveway.
- D. Outdoor seating may be permitted; provided, written permission is obtained from the property owner and the seating area does not displace any required parking spaces.
- E. Amplified sound and freestanding signs shall not be permitted.
- F. The food truck shall be stationary at all times when open for business.
- G. The owner or an employee shall be present within the vehicle at all times while open for business.
- H. Access to restroom facilities must be available.
- I. The owner or operator of the food truck shall provide trash receptacles, other than public receptacles.
- J. All equipment, other than outdoor seating, shall be inside, attached to or within three feet of the food truck.
- K. Evidence of Greene County health department approval shall be provided.
- L. Disposal of wastewater shall be into the sanitary sewer system. The use of storm drains or any other form of discharge is prohibited.
- M. The conditional use approval shall be reviewed annually by the Village manager to ensure compliance with all standards of this section and any other conditions that may have been imposed upon the original approval.

(2) Internet Sweepstakes Café.

- A. A license shall be obtained in accordance with Village ordinance 2011-12.
- B. An internet sweepstakes café shall be located no closer than 500 feet from any school, church, public park, library or other internet sweepstakes café, as measured from nearest property line to nearest property line.

- C. Hours of operation shall be limited to 9:00 a.m. to 11:00 p.m., Monday through Saturday.
- (3) Outdoor Commercial Recreation.
- A. The front, side and rear yard minimum setbacks shall be 50 feet for all buildings and outdoor components of the recreational facility.
- B. The parking setback shall be 20 feet from lot lines in the front, side and rear yards in non-residential zoning districts and 50 feet from lot lines in residential districts.
- C. Building design and materials shall be compatible with the existing or intended character of the surrounding area.
- D. An operations plan describing the nature of the use, hours of operation, etc. shall be provided.
- E. The Planning Commission may also establish conditions to minimize negative impacts on nearby uses and traffic operations along public streets, such as, but not limited to hours of operation, noise buffering and location of waste receptacles.
- (4) Restaurants, Drive-Through.
- A. Sufficient vehicular stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of eight stacking spaces for each service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation, parking spaces and egress from the property by vehicles not using the drive-through portion of the facility.
- B. A minimum of two parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
- C. Public access to the site shall be located at least 100 feet from any intersection or other driveway on the same side of the street, as measured from the nearest right-of-way line to the nearest edge of the access.
- D. Internal circulation and access to egress from the site shall not substantially impair the movement of other modes of transportation, such as bicycles and pedestrians, to and through the site.
- E. Amplified speakers and sound equipment shall be located at least 50 feet from any adjoining residential property. Additional landscaping and fencing shall be installed between such equipment and the adjoining residential property to minimize associated noise impacts. Noise levels must comply with the Village noise ordinance (*Ord. 634*).
- (5) Sexually Oriented Business.
- A. Intent. In the development and execution of these zoning regulations, it is recognized that some uses, because of their very nature, may have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby causing a deleterious effect upon the adjacent areas. The proximity of sexually oriented businesses to certain uses considered particularly susceptible to the negative impacts of the concentration of sexually oriented uses tends to erode the quality of life, adversely affect property values, disrupt business investment, encourage residents and businesses



to move or avoid the community, increase crime, and contribute to a blighting effect on the surrounding area. There is convincing documented evidence of the deleterious effect that sexually oriented businesses have on both existing businesses around them and the surrounding residential areas to which they may be adjacent. Therefore, the following intents are served by these regulations:

1. This section describes the uses regulated and the specific standards necessary to ensure that the adverse effects of these uses will not contribute to the deterioration of the surrounding neighborhood, to prevent undesirable concentration of these uses, and to require sufficient spacing from uses considered most susceptible to negative impacts.
2. These provisions are not intended, nor shall they have the effect of, imposing a limitation or restriction on the content of any communicative materials including, but not limited to, sexually oriented materials that are protected by the First Amendment to the United States Constitution.
3. Additionally, it is not the intent of the provisions of this section, nor shall it have the effect of, restricting or denying access by adults to sexually oriented materials that are protected by said federal and state constitutions.
4. Further, it is not the intent of these provisions, nor shall they have the effect of, denying access by the distributors and exhibitors of sexually oriented entertainment to their target market.
5. These regulations shall not be interpreted as intending to legitimize any activities that are prohibited by federal or state law, or by any other code of the Village of Yellow Springs.

B. Uses Regulated. The following uses are regulated by this subsection and defined for purposes of regulating sexually oriented businesses:

1. Adult Arcade
2. Adult Book Store
3. Adult Cabaret, Club, Bar or Lounge
4. Adult Motel
5. Adult Motion Picture Theater

C. Regulations.

1. No sexually oriented business shall be permitted in a location in which any principal building or accessory structure, including signs, is within 1,320 feet of any principal building or accessory structure of another sexually oriented business.
2. No sexually oriented business shall be established on a parcel within 500 feet of any parcel in a residential district or any parcel used for a single family, two-family or multiple-family residence, public park, school, child care facility, church or similar place of worship, public library, Village office, police department or fire department, youth center, or commercially operated school attended by children such as, for example, dance schools, gymnastic centers, etc. The distance between a proposed sexually oriented business and any such zoned area or existing

- use shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of that zoned area or existing use.
3. Any sign or advertising for the sexually oriented business must comply with the provisions of this code. No sign or advertising may include photographs, silhouettes, or drawings of any specified anatomical areas or specified sexual activities, or obscene representations of the human form and may not include animated or flashing illumination.
  4. The entrances to the proposed sexually oriented business at both the exterior and interior walls, in a location visible to those entering and exiting the business, must be clearly marked with lettering at least two inches in height stating:
    - a. "Persons under the age of 18 are not permitted to enter the premises;" and
    - b. "No alcoholic beverages of any type are permitted within the premises."
  5. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining roadway or a neighboring property.
  6. Hours of operation shall be limited to 9:00 a.m. to 11:00 p.m., Monday through Saturday.
  7. All off street and on-site parking areas shall comply with this code, based on the primary use (i.e., retail, assembly, etc.) and shall additionally be illuminated at all times.
  8. Any booth, room or cubical available in any sexually oriented business that is used by patrons for the viewing of any entertainment shall:
    - a. Be unobstructed by any door, lock or other entrance and exit control device;
    - b. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
    - c. Be illuminated such that a person of normal visual acuity looking into the booth, room or cubical from its entrance adjoining the public lighted aisle can clearly determine the number of people within;
    - d. Have no holes or openings in any side or rear wall not relating to utility, ventilation or temperature control services or otherwise required by any governmental code or authority.
- D. Conditions of Approval. Prior to granting approval for the establishment of any sexually oriented business, the Planning Commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the sexually oriented business which is necessary for the protection of the public interest. Any evidence, bond, or other performance guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

- E. Access to Minors. No person operating a sexually oriented business shall permit any person under the age of 18 to be on the premises of the business as an employee, customer, or otherwise.

(e) *Residential.*

(1) Accessory Dwelling Units.

- A. An accessory dwelling unit may be located within a principal single-family detached dwelling or a detached accessory building on the same lot as a principal dwelling.
- B. The accessory dwelling unit shall share all public utilities (water/sewer/electric) with the principal dwelling unit. Accessory dwelling units will not be separately metered.
- C. A minimum of one off-street parking space shall be provided on the lot for the accessory dwelling unit in addition to the off-street parking spaces required for the principal dwelling unit.
- D. The accessory dwelling unit shall be limited in size to a maximum of 50 percent of the total living area of the principal dwelling or 750 square feet, whichever is less.
- E. The accessory dwelling shall contain a living area, one bath and a kitchenette (including a refrigerator, microwave oven, stove and sink) and may contain not more than one bedroom.
- F. No more than two adults shall occupy the accessory dwelling unit.
- G. No new access points or driveways shall be created or installed for access to the accessory dwelling unit.

(2) Bed and Breakfasts.

- A. A bed and breakfast shall not provide more than six guest rooms plus a common area for use by all guests.
- B. A bed and breakfast establishment shall be located only in a detached single-family dwelling, designed and constructed for single family use, which shall contain at least 1,500 square feet of useable floor area. For each guest room in excess of two, an additional 100 square feet of floor area shall be required.
- C. The bed and breakfast shall be the principal residence of the owner or manager, who shall reside there when the bed and breakfast is in operation.
- D. Meals shall be limited to breakfast and evening snack, and shall be served only to guests of the facility and members and guests of the owner's family.
- E. There shall be at least one off-street parking space provided for each guest room, in addition to the parking spaces required to serve the principal residence.
- F. One sign, not exceeding four square feet, shall be allowed for identification purposes only and shall either be mounted on the front wall of the dwelling or placed within the front yard no closer than 10 feet to the front lot line. Sign lighting shall be indirect and shielded from view off site. Internally lighted signs are not permitted.
- G. Cooking facilities shall not be permitted in bed and breakfast guest rooms.

- H. Exterior refuse storage facilities shall be screened from view on all sides by a six foot solid decorative fence, wall, vegetation or similar visual barrier.
- I. In addition to the site plan required by this chapter, a floor plan of the dwelling unit and the use of each room shall be submitted with the conditional use application.

(3) Boarding Houses.

- A. The boarding house shall front on and have direct access to an arterial or collector street.
- B. A maximum of ten guest rooms may be permitted.
- C. Off-street parking shall be provided at a ratio of one space per guest room. The parking area shall be located in the rear yard and screened from adjoining properties.
- D. One sign, not exceeding four square feet, shall be allowed for identification purposes only and shall either be mounted on the front wall of the dwelling or placed within the front yard no closer than 10 feet to the front lot line. Sign lighting shall be indirect and shielded from view off site. Internally lighted signs are not permitted.

(4) Dwelling Units on Upper Floors with Non-Residential at Street Level.

- A. Dwelling units shall not be located on the street level of a mixed use building.
- B. Nonresidential uses, including storage, shall not be located on the same floor as a dwelling unit.

(5) Home Occupation.

- A. Permit. Application for a home occupation permit shall be made to the zoning administrator, together with payment of such fee as may be established by Village Council. The requirement for a permit shall be waived if all of the following conditions apply to the home occupation: the proposed home occupation will not employ any persons other than residents of the dwelling; the home occupation is such that it will not generate customers, clients or visitors to the home; there will be no sign on the property identifying the home occupation and all other provisions of this section shall be met.
- B. If the zoning administrator cannot determine if the home occupation conditional use requirements are met, in his or her sole discretion the zoning administrator may refer the matter to the Planning Commission for a conditional use hearing in accordance with the procedures of this chapter.
- C. The use shall be conducted entirely within the dwelling, with the following exception(s):
  - 1. The use may be conducted entirely within a garage or accessory building unattached to the dwelling in property zoned RA or RB as long as the use is not prohibited in a Planned Unit Development, recorded deed restrictions or other similar applicable recorded restrictions upon the parcel.

2. Any dwelling, garage or accessory building used in the home occupation shall comply with all other applicable Village ordinances and requirements and shall not be nonconforming with respect to lot, width and dimensional requirements.
- D. The use shall be carried on only by the residents of the dwelling and not more than one other person.
- E. The use of the dwelling for a home occupation must be clearly accessory, incidental and subordinate to the permitted principal residential use, and shall not utilize more than 20 percent of the usable floor area of the principal dwelling or its equivalent if conducted within an accessory building, or 250 square feet<sup>1</sup>, whichever is less.
- F. The appearance of the dwelling shall not be altered, nor shall the occupation within the dwelling be conducted in any manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or the emission of sounds, vibrations or light that carry beyond the premises.
- G. No outdoor storage, activities or displays shall be permitted.
- H. No combustible, toxic or hazardous materials may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.
- I. There shall be no activity that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line. The use shall not create a nuisance for the public and any surrounding property.
- J. Traffic generated by the combined home and home occupation shall be compatible with traffic normally expected in a residential district. Vehicles used in the home occupation or making deliveries shall be no larger than utility vehicles commonly used for noncommercial purposes, i.e, pick-up trucks, vans, panel trucks and the like and parcel package delivery trucks.
- K. The home occupation shall not entail more than eight client visits per day or forty per week. The operator of the home occupation is responsible for maintaining a log of such visits.
- L. Parking of motor vehicles shall be limited to one vehicle used for the home occupation per parcel. Parking generated by the conduct of the home occupation shall be provided for on the lot's driveway, which shall meet the minimum size requirements for off-street parking set forth in *Chapter 1264*. Parking of motor vehicles generated by the home occupation are not allowed on the street or on any unpaved area of the lot.
- M. In the event any of the above conditions or other conditions required by the Planning Commission are not met, the revocation process as set forth in Section 1262.06 shall take place.

(6) Short-Term Rentals.

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<sup>1</sup> For building code purposes, the Residential Code of Ohio limits usable floor area for a commercial purpose to ten percent.

- A. Permit. Upon approval of the conditional use, the owner shall submit to the zoning administrator the name and emergency contact information for the owner or property manager who can be contacted and will respond within a reasonable time period to any complaints, violations, emergencies or other concerns related to the short-term rental property or tenants.
- B. Location. The Planning Commission shall consider the proposed location relative to its proximity to other such uses in the vicinity in order to avoid an undue concentration that could have a negative effect on the surrounding neighborhood.
- C. Maximum Occupancy. The maximum number of tenants permitted shall be determined by applicable health department requirements.

(f) *Storage and Distribution.*

(1) Cartage, Express and Parcel Delivery Facilities, Freight Terminals, Warehousing and Storage.

- A. The site shall have a minimum area of ten acres, provided the Planning Commission, may reduce the site area to no less than five acres where it is demonstrated to its satisfaction that the truck terminal operation will be compatible with other surrounding uses.
- B. All ingress and egress from the site shall be directly onto an arterial street.
- C. The site shall be designed so all vehicles are able to enter and leave the site without having to back-out onto the street. Driveways shall be curbed for their full length in the front yard.
- D. The Planning Commission shall determine that traffic will be no more hazardous nor the volume of traffic any greater than the capacity for the street involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and adequacy of intersections. All access to the site shall be from arterial streets built to a standard to accommodate heavy trucks.

(2) Mini-Warehouse and Self-Storage Facilities.

- A. The minimum size of the site shall be not less than two acres.
- B. All ingress and egress from the site shall be directly onto an arterial or collector street.
- C. No storage of combustible or flammable liquids, combustible fibers, or explosive materials, as defined in the fire prevention code, or toxic materials, shall be permitted within the self-storage buildings or upon the premises. However, storage of recreational vehicles containing fuel and other automotive fluids is permitted.
- D. The use of the premises shall be limited to storage of personal items and business items and shall not be used for operating any other business, maintaining or repairing vehicles or for any recreational activity or hobby.
- E. Limited retail sales of products and supplies incidental to the principal use, such as packing materials, packing labels, tape, rope, protective covers, locks and chains shall be permitted.
- F. All yards abutting a street shall be screened from view in accordance with the requirements of *Section 1270.02(b)*.

- G. A security manager may be permitted to reside on the premises. A minimum of two parking spaces shall be provided for the dwelling unit.
- H. This use shall not be permitted within the Gateway Overlay District.

(g) *Utility.*

(1) Wireless Communication Facilities.

- A. Required Approvals. The placement of wireless communications facilities and towers shall meet the following approval requirements:
  - 1. Installation of New Antenna. The installation of new antenna(s) on existing towers, including legal non-conforming towers, and existing alternative structures (such as water towers, buildings, or church steeples) may be approved by the zoning administrator subject to all requirements of this section. Any new antenna that will add either ten percent or 20 feet, whichever is less, above the highest point of any existing tower or alternative structure shall be subject to the provisions of this chapter for the installation of new towers as described below.
  - 2. Installation of New Accessory Structures. The installation of new accessory structure(s), such as equipment buildings, to support the installation of additional antennas on existing towers or alternative structures may be approved by the zoning administrator.
- B. Removal. Any tower unused or left abandoned for 12 consecutive months shall be removed by the property owner at his/her expense. Regardless of the tower ownership, the property owner shall be responsible for removal. Upon the request of the zoning administrator, the operator of any facility to which this provision applies shall provide documentation of the use of that facility for the purpose of verifying any abandonment.
- C. Interference with Public Safety Facilities. No new wireless communications facilities or tower shall result in any interference with public safety telecommunications.
- D. Required Documentation for all Facilities. In addition to the requirements provided in this chapter for the receipt of conditional use approval, applications for new towers, new antenna, and new related facilities shall include the following: Where the equipment is mounted on an existing building, the comparable information for that structure shall be provided.
  - 1. Engineer's Report. A report from a professional engineer licensed in the State of Ohio that:
    - a. Describes the height and design of any new tower and/or antenna including a cross-section, latitude, longitude, and elevation;
    - b. Describes or updates (in the case of new antenna) the tower's capacity, including the type and number of antennae it can accommodate;
    - c. Certifies compliance of the construction specifications with all applicable building codes (including but not limited to the foundation for the tower, anchors for the guy wires if

- used, co-location, and strength requirements for natural forces: ice, wind, earth movements, etc.);
      - d. Certifies that the facility will not interfere with established public safety telecommunication facilities; and
      - e. Includes the engineer's seal and registration number.
    - 2. Letter of Intent. A letter of intent committing the tower owner, property owner, antenna owners, and their successors to allow the shared use of the tower.
    - 3. Proof of Compliance. Copies of any required approvals from the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and all other appropriate state and federal agencies.
    - 4. Removal Affidavit. A letter committing all parties, including the property owner and his/her successors, to remove the tower and all related accessory structures, fences, landscaping, and equipment if the tower is abandoned (unused for a period of 12 consecutive months). The removal affidavit shall be recorded in Greene County, with a copy of the recorded affidavit provided to the zoning administrator.
  - E. Determination of New Tower Need. Any proposal for a new telecommunications tower shall only be approved if the applicant submits verification from a professional engineer licensed in the State of Ohio that the antenna(s) planned for the proposed tower cannot be accommodated on any existing or approved towers or other structures within a two mile radius of the proposed tower location due to one or more of the following reasons:
    - 1. Existing Public Site. There are no existing publicly owned towers or sites suitable to accommodate the proposed tower or antennas.
    - 2. Inadequate Structural Capacity. The antenna(s) would exceed the structural capacity of an existing or approved tower or other structure.
    - 3. Interference. The antennas would cause interference impacting the usability of other existing or planned equipment at the tower site.
    - 4. Inadequate Height. The existing or approved towers or structures within the search radius cannot accommodate the planned equipment at the height necessary.
    - 5. Land Availability. Additional land area is not available (when necessary).
  - F. Design Requirements for new Towers and Related Facilities. All telecommunications facilities shall meet the following design requirements:
    - 1. Lighting. Tower lighting shall only be as required for safety or security reasons or as required by the FAA or other federal or state authority. All ground level security lighting shall be oriented inward so as not to project onto surrounding properties, and shall have 90 degree cut-off luminaries (shielded down lighting).
    - 2. Co-Location. All telecommunication towers shall be designed, and engineered structurally, electrically and in all other respects to



- accommodate both the applicant's equipment and at least one additional user for every 50 feet in total tower height in excess of 75 feet.
- f. Each additional user shall be assumed to have an antenna loading equal to that of the initial user.
  - g. Towers must be designed to allow for rearrangement of antennas and to accept antennas mounted at varying heights.
3. Height. All towers and antenna shall conform to FAA tall structure requirements. The maximum height of accessory structures shall be 15 feet.
  4. Signs. Signs for all telecommunications facilities shall be permitted up to a total of four square feet per user and mounted on the fence.
- G. Site Requirements for new Towers and Related Facilities. All telecommunications facilities shall meet the following site requirements:
1. Vehicular Access. Vehicle access drives may be gravel or paved and shall be located within an access easement that is a minimum of 20 feet in width. Any portion of the entrance located in a public right-of-way shall meet the applicable public street design, construction, and pavement requirements.
  2. Site Area. The lot (or lease area) where the tower is located shall be large enough to accommodate all future anticipated accessory structures needed by future antenna users. The size of the site shall also be of sufficient area to allow the location of one additional tower and associated support facilities.
    - a. The arrangement of the initial tower and the topography of the site shall be considered in determining the sufficiency of the site area.
    - b. At a minimum, the width and depth of the tower site shall be a distance equal to the tower height. The tower shall be placed within the property so it is no closer to any lot line than one-half (1/2) the tower height.
    - c. All tower supporting and stabilizing wires shall be located within the site area.
  3. Setback. The required setbacks for the tower and related facilities shall be as follows:
    - a. Side and Rear Setback. The minimum side and rear setback for all facilities, including the security fence, shall be 25 feet.
    - b. Front Setback. The minimum front setback for all facilities shall be as specified by this code for the zoning district in which it is located. No part of a wireless telecommunications facility, including the security fence, and any required guide wires or bracing shall be permitted in the required front setback.
    - c. Additional Setback from Residential Districts. No facility shall be placed closer than one and one-half times the total height of the tower or 200 feet, whichever is greater, to any property included in a residential district.

- d. Additional Landscaping. Landscape screening, in addition to the requirements of this chapter, may be provided in the setback area.
- 4. Encroachment. No part of any telecommunications facility nor associated lines, cables, equipment, wires or braces shall at any time extend across or over any part of a public right-of-way, sidewalk, or property line.
- 5. Fencing. An eight foot high security fence shall completely surround the tower and accessory equipment building site. Any deterrents, such as barbed wire, shall be at least eight feet above grade.
  - a. An area ten feet in width shall remain outside of the fence for the purpose of providing the landscape screening described in subsection H, below.
  - b. In the Residential Districts, the required security fence enclosing the facility shall be 100 percent opaque and of wood, brick, or stone construction. Opaque, eight foot tall gates shall be provided for access. In no instance shall the use of chain link fencing or gates with screening inserts be considered as opaque.
- H. Landscape Screening. Evergreen buffer plantings shall be located and maintained around the outermost perimeter of the security fence of all wireless communications facilities. The landscape plan for the site shall provide plants in a number and design to provide a screen of the fence, all equipment and the base of the tower, as determined by the Planning Commission.
  - 1. If evergreen shrubs are used they shall be planted a maximum of five feet apart on center.
  - 2. If evergreen trees are used they shall be planted a maximum of ten feet apart on center.

(h) *Vehicle and Transportation.*

(1) New and Used Vehicle Sales.

- A. The minimum lot size shall be one-half acre with a minimum lot width of 200 feet.
- B. Signs shall conform to the requirements of *Chapter 1266*. Flags, pennants, balloons, ribbons, or other attention getting devices are not permitted.
- C. Temporary or portable structures are not permitted.
- D. Outdoor display.
  - 1. Vehicles, for sale or otherwise, shall be parked on approved hard surfaces.
  - 2. Vehicle display areas shall meet the setback requirements for parking areas as required in the B-2 District.
  - 3. Vehicle display or storage shall not be allowed in areas required for visitor, employee or service parking, as required by *Chapter 1264*.

4. All other merchandise available for sale, including, but not limited to, clothing, accessories, collectibles etc. shall be sold and displayed within an enclosed building.
  - E. All service work, including car washing, repair and general maintenance, shall be conducted entirely within an enclosed building.
  - F. Audible paging systems or outdoor speakers are not permitted.
  - G. The use of spotlights or similar equipment is prohibited.
- (2) Vehicle Repair, Major.
- A. All main and accessory structures shall be set back a minimum of 75 feet from any residential district.
  - B. There shall be a minimum lot frontage of 100 feet or the zoning district requirement, whichever is greater, on an arterial or collector street; and all access to the property shall be from that street.
  - C. Driveways or curb openings shall be located at least 100 feet from any intersection and 50 feet from any adjacent residential district boundary line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway.
  - D. A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.
  - E. Overhead doors shall not face a public street or residential district. The Planning Commission may modify this requirement upon a determination that there is no reasonable alternative and the poor visual impact will be diminished through use of building materials, architectural features and landscaping.
  - F. All maintenance and repair work shall be conducted completely within an enclosed building.
  - G. There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies or equipment.
  - H. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted up to 30 days in a designated area. Such area shall be screened from public rights-of-way by a solid, sight-obscuring fence or wall six feet in height.
  - I. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the fire department.
- (3) Vehicle Repair, Minor.
- A. A building or structure shall be located at least 40 feet from any side or rear lot line abutting a residential district.
  - B. Driveways or curb openings shall be located at least 100 feet from any intersection and 50 feet from any adjacent residential district boundary line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway.
  - C. Equipment, including hydraulic hoists, pits, and lubrication, greasing, and other automobile repairing equipment shall be located entirely within an

- enclosed building. Outdoor storage or display of merchandise, such as tires, lubricants and other accessory equipment is not permitted.
- D. All activities shall occur inside a building. No vehicle may be stored outside on the property for more than five days.
  - E. Storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gas above ground shall not be permitted.
  - F. Floor drains shall not connect to the sanitary sewer system.
  - G. The minimum required lot frontage shall be on an arterial or collector street and all access to the property shall be from that street.
  - H. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the fire department.
  - I. If the use includes fuel sales, the requirements for a vehicle service station shall also be met.

(4) Vehicle Service Stations.

- A. There shall be a minimum lot area of one acre and minimum lot width of 150 feet on an arterial street.
- B. Only one driveway shall be permitted from each street, unless the Planning Commission determines additional driveways will be necessary to ensure safe and efficient access to the site. Driveways or curb openings shall be located at least 100 feet from any intersection and 50 feet from any adjacent residential district boundary line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway.
- C. Pump islands shall be a minimum of 30 feet from any public right-of-way or lot line. Tanks, propane, and petroleum products shall be set back at least 15 feet from any lot line.
- D. Overhead canopies shall be setback at least 20 feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. All signs, logos, or identifying paint scheme shall be in accordance with *Chapter 1266*. The canopy shall not exceed 18 feet in height. Lighting in the canopy shall be recessed, fully shielded, and directed downward to prevent off-site glare.
- E. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the fire department.
- F. In the event that a service station use has been abandoned or terminated for a period of more than 12 months, all underground gasoline storage tanks shall be removed from the premises, in accordance with State requirements.

- G. A vehicle service station may be combined with other uses, such as convenience store, vehicle wash, and/or restaurants; provided all requirements, including parking, are met for each use and the most restrictive requirements applicable to any single use shall apply.

(5) Vehicle Wash Facilities.

- A. All washing activities must occur inside a building.
- B. The building exit for washed vehicles must be at least 75 feet from the entrance drive that accesses the site.
- C. Required stacking spaces for waiting vehicles shall not be located within a public or private right-of-way and shall not conflict with maneuvering areas, parking spaces and other activities. Stacking lanes shall be designed to prevent vehicle queues from extending beyond the property.
- D. Wastewater must be recycled, filtered or otherwise cleansed to minimize discharge of soap, wax and solid matter into public sewers. All such water shall be discharged only into the public sanitary sewer system.
- E. Only one driveway shall be permitted from any street, unless the Planning Commission determines additional driveways will be necessary to ensure safe and efficient access to the site.
- F. Driveways or curb openings shall be located at least 100 feet from any intersection and 50 feet from any adjacent residential district boundary line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway.
- G. For automated drive-through wash facilities, a by-pass lane is required that allows by-passing waiting vehicles.
- H. Overhead doors shall not face a street, except if approved by the Planning Commission in these circumstances:
  - 1. When the doors of a through-garage are located at the front and rear of a building; or
  - 2. When a garage is located on a corner or through lot; or
  - 3. When determined that a rear garage door would negatively affect an abutting residential use or district.
- I. A vehicle wash facility building and any accessory buildings and uses, including vacuums, shall be located at least 50 feet from a street right-of-way line and 100 feet from any residential district boundary.
- J. The property owner or operator must comply with all applicable noise regulations. Air handling equipment shall be located on a roof, be equipped with intervening noise reduction baffles, be in proper working condition and must also comply with this provision.

**1264.01 Purpose**

The purpose of this chapter is to prescribe regulations for off-street parking of motor vehicles in residential and non-residential zoning districts; to ensure by the provision of these regulations that adequate parking and access is provided in a safe and convenient manner; and to afford reasonable protection to adjacent land uses from light, noise, air pollution and other affects of parking areas.

**1264.02 General Requirements**

- (a) *Applicability of Parking Requirements.* For all buildings and uses established after the effective date of this code, off-street parking shall be provided as required by this chapter.
- (1) Whenever use of a building or lot is changed to another classification of use, off-street parking facilities shall be provided, as required by this chapter.
  - (2) If the intensity of use of any building or lot is increased, through the addition of floor area, increase in seating capacity, number of employees or other means, additional off-street parking shall be provided, as required by this chapter.
  - (3) Off-street parking facilities in existence on the effective date of this code shall not be reduced below the requirements of this chapter, nor shall nonconforming parking facilities that exist as of the effective date of this code be further reduced or made more nonconforming.
  - (4) An area designated as required off-street parking shall not be changed to another use, unless equal facilities are provided elsewhere in accordance with the provisions of this chapter.
- (b) *Location.* Off-street parking facilities required for all uses other than single and two-family dwellings shall be located on the lot or within 300 feet of the building(s) or use they are intended to serve, as measured along lines of public access from the nearest point of the parking facility to the building(s) or use served. Off-street parking facilities required for single-and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, and shall consist of a parking strip, parking apron, and/or garage. All residential driveways shall meet Village engineering standards. In the B-1, Central Business District, parking facilities shall be located within 600 feet of the building or use to be served.
- (c) *Shared/Common Parking.*
- (1) Two or more buildings or uses may share a common parking facility, provided the number of parking spaces available equals the required number of spaces for all the uses computed separately. Cumulative parking requirements for mixed-use developments or shared facilities may be reduced by the Planning Commission where it can be determined that one or more of the factors listed in subsection (d) below apply.
  - (2) Parking facilities for a church or place of worship may be used to meet not more than 50 percent of the off-street parking for theaters, stadiums and other places

of public assembly, stores, office buildings and industrial establishments lying within 600 feet of a church or place of worship, as measured along lines of public access; provided, the church or place of worship makes the spaces available and there is no conflict between times when the uses are in need of the parking facilities.

- (d) *Modification of Parking Requirements.* The Planning Commission may reduce the parking space requirements of this chapter for any use, based upon a finding that other forms of travel are available and likely to be used and, in particular, the site design will incorporate both bicycle parking facilities and pedestrian connections. In addition, one or more of the following conditions shall also be met:
- (1) Shared parking by multiple uses where there will be a high proportion of multipurpose visits or where uses have peak parking demands during differing times of the day or days of the week and meeting the following requirements:
    - A. Pedestrian connections shall be maintained between the uses.
    - B. For separate lots, shared parking areas shall be adjacent to each other, with pedestrian and vehicular connections maintained between the lots.
    - C. Unless the multiple uses all are within a unified business center, office park or industrial park all under the same ownership, shared parking agreements shall be filed with the Clerk of Council after approval by the Planning Commission.
  - (2) Convenient municipal off-street parking or on-street spaces are located adjacent to the subject property.
  - (3) Expectation of walk-in trade is reasonable due to sidewalk connections to adjacent residential neighborhoods or employment centers. To allow for a parking space reduction, the site design shall incorporate pedestrian connections to the site and on-site pedestrian circulation, providing safe and convenient access to the building entrance.
  - (4) Where the applicant has provided a parking study, conducted by a qualified traffic engineer, demonstrating that another standard would be more appropriate based on actual number of employees, expected level of customer traffic, or actual counts at a similar establishment.
  - (5) The Planning Commission may require a parking study to document that any one or more of the criteria (1) through (4) above would be met.
- (e) *Deferred Parking.*
- (1) Where a reduction in the number of parking spaces is not warranted, but an applicant demonstrates that the parking requirements for a proposed use would be excessive, the Planning Commission may defer some of the required parking. A site plan shall designate portions of the site for future construction of the required parking spaces, meeting the design and dimensional requirements of this chapter. Any area so designated shall be maintained in a landscaped appearance and not occupy required buffers, greenbelts or parking lot setbacks, or be used for any other purpose. Landscaping, such as parking lot trees, that would otherwise be required for the deferred spaces shall be installed within the deferred parking area.
  - (2) The deferred parking shall meet the requirements of this chapter, if constructed. Construction of the additional parking spaces within the deferred parking area may be initiated by the owner or required by the Village, based on parking needs or observation, and shall require approval of an amended site plan.

- (f) *Temporary Parking.* It is recognized that there may be special events or situations that occur infrequently which would result in a temporary reduction in the availability of required parking spaces or create a need for temporary off-site parking. Such events could include outdoor vehicle sales, festivals, fairs, church/school car washes or garage sales. In those instances, the zoning administrator may authorize the temporary use of the required parking area or temporary off-site parking upon a demonstration by the applicant that:
- (1) the loss of the required parking spaces may be off-set by requiring employees or customers to park elsewhere or that due to the time of year or nature of the on-site business, the required spaces are not needed;
  - (2) permission has been granted by neighboring property owners or operators to use their parking facilities;
  - (3) the duration of the special event is so short or of such a nature as to not create any parking problems for the normal operation of the existing on-site use;
  - (4) temporary off-site parking is located and designed to ensure safe and efficient circulation for both pedestrians and vehicles (a site plan may be required to demonstrate this);
  - (5) the proposed special event satisfies all other applicable Village regulations.
- (g) *Maximum Allowed Parking.* In order to minimize excessive areas of pavement that detract from aesthetics, contribute to high rates of storm water runoff and generate reflective heat, the minimum parking space requirements of this section shall not be exceeded by more than ten percent, unless approved by the Planning Commission as part of site plan review. In approving additional parking space, the Planning Commission shall determine that the parking is necessary, based on documented evidence, to accommodate the use on a typical day.
- (h) *Downtown Parking.* The minimum off-street parking spaces required for any non-residential use in the B-1 district shall be reduced by 25 percent from the requirements of *Table 1264.02*. These requirements may be further reduced by the Planning Commission in conformance with the provisions of *Section 1264.02(d)*.
- (i) *Bicycle Parking.* Accommodation for bicycle parking is encouraged in all districts, but especially in the B-1, Central Business District, and the E-I, Educational Institution District.
- (j) *Required Off-Street Parking Spaces.* The minimum number of required off-street parking spaces shall be provided and maintained on the premises or as otherwise allowed by this chapter, on the basis of the applicable requirements of *Table 1264.02*. As a condition of approval, the Village Council may require that a performance guarantee be posted, in accordance with the provisions of *Section 1272.04*.
- (1) When units or measurements determining the number of required parking spaces result in a fraction over one-half, a full parking space shall be required.
  - (2) In the case of a use not specifically mentioned, the requirement for off-street parking facilities for a specified use which is most similar, as determined by the zoning administrator, shall apply.
  - (3) Each 24 inches of bench, pew, or similar seating facilities shall be counted as one seat, except if specifications and plans filed in conjunction with a building permit application specify a maximum seating capacity, that number may be used as the basis for required parking spaces.
  - (4) Where parking requirements are based upon maximum seating or occupancy capacity, the capacity shall be as determined by the building code and fire code.



- (5) Unless otherwise indicated, floor area shall be usable floor area (UFA).

<b>Table 1264.02 Parking Requirements by Use</b>	
<b>Use</b>	<b>Number of Parking Spaces</b>
<b>Residential Uses</b>	
Accessory dwellings	1 space per dwelling unit
Bed and breakfast	2 for the owner/operator and 1 per leasable room.
Boarding or rooming house.	1 space per 2 beds, plus 2 additional spaces for owner or employees.
Dormitories, fraternities and similar student housing	1 per 3 occupants, plus 1 per 2 full-time equivalent employees
Group homes, juvenile and adult	1 per 4 occupants
Multiple-family residential dwellings	2 spaces per dwelling unit, except in B-1 District (downtown) where 1 per dwelling unit is required.
Senior apartments and senior independent living	1.25 spaces per unit. Should units revert to general occupancy, the requirements for multiple family dwellings shall apply
Single- family and two-family dwellings	2 spaces per dwelling unit.
<b>Institutional Uses</b>	
Auditoriums, assembly halls, meeting rooms, theaters, and similar places of assembly	1 space per 3 seats, based on maximum seating capacity in the main place of assembly therein, as established by the Village fire and building codes
Child day care centers, nursery schools, and day nurseries; adult day care centers	1 per 350 sq. ft. of UFA, plus 1 per employee. Sufficient area shall be designated for drop-off of children or adults in a safe manner that will not result in traffic disruptions
Churches and customary related uses	1 per 5 seats in the main unit of worship, plus spaces required for each accessory use such as a school
Colleges and universities; business, trade, technical, vocational, or industrial schools	1 per classroom plus 1 per 3 students based on the maximum number of students attending classes at any one time
Elementary and middle schools	1 per teacher, employee, or administrator, in addition to the requirements for places of assembly such as auditorium, gymnasium, or stadium
Government offices	1 per 300 sq. ft. of UFA plus requirements for auditoriums, meeting halls or other assembly rooms
High schools; performing and fine arts schools	1 per teacher, employee, or administrator, and 1 for every 10 students, in addition to the requirements for places of assembly such as auditorium, gymnasium, or stadium.
Hospitals and similar facilities for human care	1 per 2 beds, plus 1 per employee on the largest shift.
Nursing and convalescent homes	1 per 3 beds or occupants and 1 space per staff member or employee on the largest shift.
Post office	1 per 200 sq. ft. of UFA
Public libraries and museums	1 per 800 sq. ft. of UFA, plus requirements for auditoriums, classrooms or other assembly rooms
<b>Retail Uses</b>	
Retail stores except as otherwise specified herein	1 for every 250 sq. ft. of UFA.

<b>Table 1264.02 Parking Requirements by Use</b>		<b>Number of Parking Spaces</b>
<b>Use</b>		
Multi-tenant shopping centers	with 60,000 square feet or less of retail	1 for every 250 sq. ft. of retail UFA.
	with over 60,000 square feet of retail	1 for every 220 sq. ft. of retail UFA.
	with restaurants	If more than 20% of the shopping center's floor area is occupied by restaurants or entertainment uses, parking requirements for these uses shall be calculated separately. Where the amount of restaurant space is unknown, it shall be assumed to be 20%.
Agricultural sales, greenhouses and nurseries or roadside stands		1 per employee plus 1 per 100 sq. ft. of actual permanent or temporary area devoted primarily to sales.
Animal grooming, training, day care, and boarding		1 for every 300 sq. ft. of UFA.
Farmers' markets		1 for every 150 sq. ft of lot area used for sales or display.
Furniture and appliance, household equipment, show-room of a plumber, decorator, electrician, hardware, wholesale and repair shop, or other similar uses		1 for every 800 sq. ft of net UFA plus 1 additional space per employee.
Grocery store/supermarket		1 for every 200 sq. ft of UFA.
Home improvement centers		1 for every 300 sq. ft of UFA.
Open air businesses, except as otherwise specified herein		1 for every 500 sq. ft of lot area for retail sales, uses, and services.
Vehicle dealerships, including automobiles, RV's, motorcycles, snowmobiles, ATV's and boats		1 for every 300 sq. ft of show room floor space, plus 1 per automobile service stall, plus 1 per employee
<b>Service Uses</b>		
Motor vehicle service stations (gas stations and truck stops)		1 per employee, plus additional parking required for other uses within vehicle service station, such as the retail floor area, restaurants or vehicle repair stalls. Each automobile fueling position shall count as one quarter 1/4 of a required space for the spaces required for other uses within an automobile service station.
Vehicle repair establishment, major or minor		2 per service stall, plus 1 per employee.
Vehicle quick oil change		2 stacking spaces per service stall, rack or pit plus 1 per employee.
Vehicle wash	Self-service (coin operated)	4 spaces plus 4 stacking spaces for every washing stall.
	Full-service	4 spaces, plus 1 per employee. 15 stacking spaces for every washing stall or line, plus a minimum 30 foot long drying lane to prevent water from collecting on street.
Banks and other financial institutions		1 per 200 sq. ft of UFA for the public. Drive-up windows/drive-up ATMs shall be provided with 3 stacking spaces per window or drive-up ATM.
Beauty parlor or barber shop		2 parking spaces per chair/station.
Dry cleaners		1 per 500 sq. ft of UFA
Laundromats		1 per washer-dryer pair, plus 1 space per employee.

<b>Table 1264.02 Parking Requirements by Use</b>	
<b>Use</b>	<b>Number of Parking Spaces</b>
Mortuary establishment, funeral home	1 per 50 sq. ft. of assembly room or parlor floor space.
Motel, hotel or other commercial lodging establishment	1.25 per guest unit. In addition, spaces required for ancillary uses such as lounges, restaurants or places of assembly shall be provided and determined on the basis of specific requirements for each individual use.
<b>Restaurants, Bars and Clubs</b>	
Standard sit-down restaurants with liquor license and brew pubs	1 per 50 sq. ft. of UFA.
Standard sit-down restaurants without liquor license	1 per 75 sq. ft. of UFA.
Carry-out restaurant (with no or limited seating for eating on premises)	6 per service or counter station, plus 1 per employee.
Open front restaurant/ice cream stand	6 spaces, plus 1 per employee and 1 per 4 seats.
Drive-through restaurant	1 per 30 sq. ft. UFA, plus 8 stacking spaces per food pickup window.
Bars, lounges, taverns, nightclubs (majority of sales consist of alcoholic beverages)	1 per 50 sq. ft. of UFA.
Private clubs, lodge halls, or banquet halls	1 for every 3 persons allowed within the maximum occupancy load as established by the Village fire and building codes.
<b>Recreation</b>	
Athletic clubs, exercise establishments, health studios, sauna baths, martial art schools and other similar uses	1 per 3 persons allowed within the maximum occupancy load as established by Village fire and building codes, plus 1 per employee.
Billiard parlors	1 per 3 persons allowed within the maximum occupancy load as established by Village building and fire codes or 1 per 300 square feet of gross floor area, whichever is greater.
Bowling alleys	8 per bowling lane plus additional for accessory uses such as bars or restaurants.
Indoor recreation establishments including gymnasiums, tennis courts and handball, roller or ice-skating rinks, exhibition halls, dance halls, and banquet halls	1 space for every 3 persons allowed within the maximum occupancy load as established by the Village fire and building codes.
Golf courses open to the public, except miniature or "par-3"	6 per 1 golf hole, plus 1 per employee, plus additional for any bar, restaurant, banquet facility or similar use.
Miniature or "par-3" courses	3 per 1 hole plus 1 per employee.
Stadium, sports arenas, sports fields (ball diamonds, soccer fields, etc.) or similar place of outdoor assembly	1 for every 3 seats or 1 for every 6 feet of bench, plus 1 per employee. For fields without spectator seating, there shall be a minimum of 30 spaces per field.

<b>Offices</b>	
Business offices or professional offices of lawyers, architects or similar professionals	1 for every 300 sq. ft. of UFA, but no less than 5 parking spaces.
Medical offices of doctors, dentists, veterinarians or similar professions	1 for every 200 sq. ft. of UFA.
<b>Industrial Uses</b>	
Industrial establishments, including manufacturing, research and testing laboratories, creameries, bottling works, printing, plumbing or electrical work-shops	1 for every 1.5 employees or 550 sq. ft. of gross floor area, whichever is greater.
Warehouses and storage buildings	1 per employee computed on the basis of the greatest number of persons employed at any one time during the day or night, or 1 for every 5,000 square feet of gross floor area, whichever is greater.
Mini warehouses/self storage	Unobstructed parking area equal to 1 for every 10 door openings, plus parking for other uses on site such as truck rental.
Truck terminal	1 per employee plus 2 truck spaces of 10 by 70 feet per truck berth or docking space.

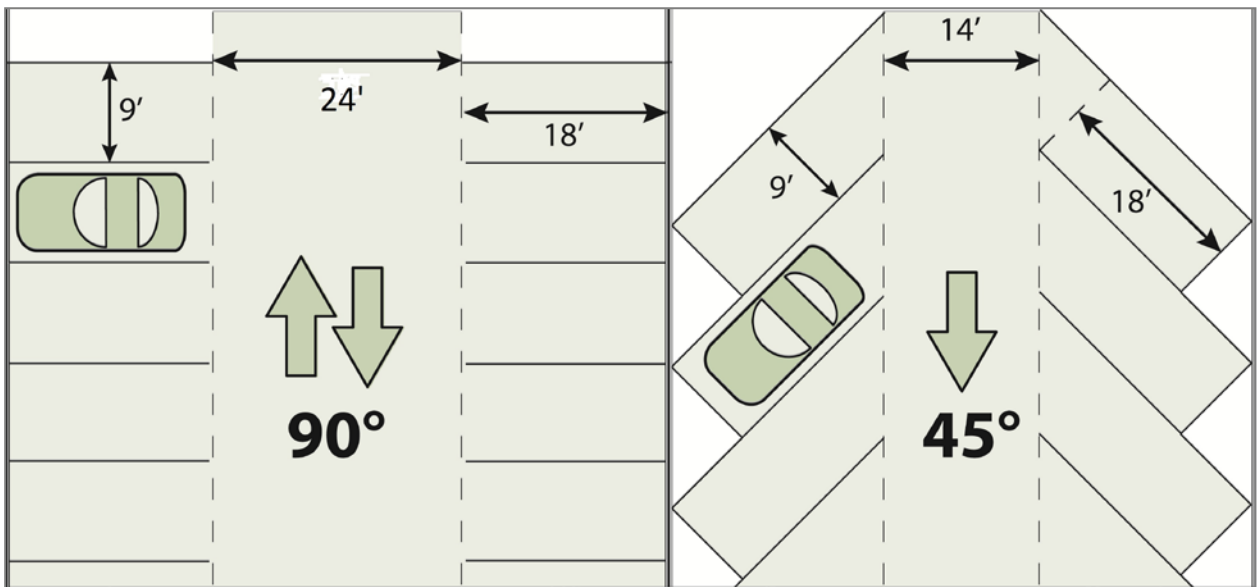
### 1264.03 Off-Street Parking and Facility Design

- (a) *Location and Setbacks.* Off street parking lots shall meet the setback requirements applicable to parking, as specified in the zoning district or requirements which may be specified for individual uses.
- (b) *Parking Construction and Development.* The construction of any parking lot shall require approval of a site plan, in accordance with *Chapter 1268*. Construction shall be completed and approved by the zoning administrator before a certificate of occupancy is issued and the parking lot is used.
- (1) Pavement. All parking lots and vehicle and equipment storage areas shall be paved with an asphalt or concrete binder, and shall be graded and drained so as to dispose of surface water which might accumulate. The Planning Commission may approve alternative paving materials, such as permeable/grass pavers, for all or a portion of the parking areas, based upon credible evidence of the durability and appearance of the proposed materials. For storage areas, the Planning Commission may approve a substitute for hard-surfaced pavement upon a determination that there are no adverse effects on adjoining properties.
  - (2) Drainage. Surface water from parking areas shall be managed in accordance with the Village engineering standards. The Village manager shall, in consultation with the Village engineer, determine the appropriate detention treatment. The applicant shall be responsible for all costs associated with the Village engineer's review.
  - (3) Dimensions. Parking space and aisle dimensions shall meet the applicable requirements specified in *Table 1264.03*.

- A. Angled parking between these ranges shall be to the nearest degree.
- B. Space length may be reduced by up to two feet if an unobstructed overhang, such as a landscaped area or sidewalk, is provided. A sidewalk shall have a minimum width of seven feet where abutting a parking area. There shall be a minimum distance of seven feet between the parking lot curb and building. Where curbing does not exist, bumper blocks shall be provided to protect pedestrian space adjacent to the building.
- C. All parking lots shall be striped and maintained showing individual parking bays, in accordance with the following dimensions:

**Table 1264.03 Dimensional Requirements (feet)**

Parking Pattern	Parking Space		Maneuvering Lane Width	Total One Row of Parking and Maneuvering Lane	Total Bay (Two Rows of Parking and Maneuvering Lane)
	Width	Length			
0°(parallel)	8	21	12	20	28
30° to 53°	9	18	14	32	50
54° to 74°	9	18	18	36	54
75° to 90°	9	18	24	42	60



- (4) Stacking Spaces. Waiting/stacking spaces for drive-through uses (such as banks, restaurants, car washes, pharmacies, dry cleaners and oil change establishments) shall be at least 24 feet long and ten feet wide. Stacking spaces shall not block required off-street parking spaces. Where the drive-through waiting lane provides for a single lane for five or more vehicles an escape/by-pass lane shall be provided to allow vehicles to exit the waiting lane.
- (5) Ingress and Egress. Adequate vehicular ingress and egress to the parking area shall be provided by means of clearly limited and defined drives. All parking lots shall provide interior access and circulation aisles for all parking spaces. The use of public streets for maneuvering into or out of off-street parking spaces shall be prohibited. Ingress and egress to a parking lot in a non-residential zoning district shall not be through a residential district, except in instances where access is

provided by means of an alley that forms the boundary between a residential and non-residential district. Except in the B-1 District (downtown), access to non-residential parking lots shall meet the following standards:

- A. Ingress and egress driveways shall be located no closer than 50 feet to the intersecting right-of-way of two streets and no closer than three feet to any adjoining property line.
  - B. Driveways shall not exceed 30 feet in width, as measured at the right-of-way line.
  - C. A maximum of one driveway shall be permitted per street frontage; provided a second driveway may be allowed where the frontage exceeds 200 feet.
  - D. No driveway shall be closer than 75 feet to another driveway on the same or abutting property.
  - E. Driveways shall be perpendicular or no more than 30 degrees from perpendicular to the curb.
  - F. Driveways shall not be located closer than 25 feet to any property line, unless approved as a shared driveway for two or more properties.
  - G. All driveways shall be constructed in accordance with the Village engineering standards.
- (6) Curbing. A six inch concrete curb, or alternative as determined by the Planning Commission, shall be provided around all sides of any parking lot of five or more spaces to protect landscaped areas, sidewalks, buildings, or adjacent property from vehicles that might otherwise extend beyond the edge of the parking lot. Curb openings are allowed for storm water drainage, as recommended by the Village engineer. Plantings shall be set back two feet from curbs to allow for bumper overhang.
- (7) Landscaping. Off-street parking areas shall be landscaped and/or buffered, in accordance with the requirements of *Chapter 1270*.
- (8) Lighting. Light fixtures used to illuminate off-street parking areas shall be arranged to deflect the light away from adjoining properties and adjacent streets. Lighting fixtures in parking areas adjacent to any residentially zoned or used property shall not exceed 20 feet in height. Fixtures in all other parking areas shall not exceed 35 feet in height. Light fixtures shall be designed to achieve 90 degree luminary cutoff.
- (9) Fire Lanes. Fire lanes shall be designated on the site and posted with signage prior to occupancy. Vehicle circulation shall meet turning radius requirements set by the fire department.
- (c) *Barrier Free Parking in Parking Lots*. Within each parking lot, signed and marked barrier free spaces shall be provided at a convenient location, in accordance with the Barrier Free Parking Space Requirements of the Ohio Department of Transportation. Barrier free spaces shall be located as close as possible to building entrances. Where a curb exists between a parking lot surface and a sidewalk entrance, an inclined approach or curb cut with a gradient of not more than a 1:12 slope and width of a minimum four (4) feet shall be provided for wheelchair access.
- (d) *Maintenance*. All parking areas shall be maintained free of trash and debris. Surface, curbing, light fixtures and signage shall be maintained in good condition.
- (e) *Limitations on Use of Parking Lots*.

- (1) Off-street parking areas are intended only for temporary vehicle parking for public safety. Except when land is used as storage space in connection with the business of a repair or service garage, use of parking areas or open land is not permitted for the storage or parking of wrecked or junked cars, or for creating a junk yard or nuisance.
- (2) Loading spaces, as required in *Section 1264.04*, and parking spaces, required in *Section 1264.02*, shall be considered separate and distinct requirements and shall be provided as individual components on the site. In no case shall one component be construed as meeting the requirements of the other.
- (3) Parking lots and loading areas shall not be used for the long-term storage of trucks or trailers, except where such outdoor storage is specifically permitted in the industrial district. Overnight parking or storage of commercial vehicles shall be prohibited, except for uses and locations approved for vehicle storage. This shall not be construed to prohibit the parking overnight of commercial fleet vehicles or the short-term parking of trailers in loading bays or staging areas in Business or Industrial districts.
- (4) It shall be unlawful to use a parking lot or open area to store or park any vehicle for the purpose of displaying vehicles for sale, except in an approved vehicle sales dealership.

#### 1264.04 Off-Street Loading Requirements

- (a) *Uses Requiring Loading Area.* On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse, retail sales, consumer services or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets, alleys and parking spaces. This provision shall not apply to uses in the B-1 District.
- (b) *Loading Area Requirements.* Loading and unloading spaces shall be paved and, unless otherwise adequately provided for, shall be ten feet by 50 feet, with 15 foot height clearance, according to the following schedule:

<b>Table 1264.04 Minimum Off-Street Loading Requirements</b>	
<b>Building Net GFA</b>	<b>Minimum Truck Loading Spaces</b>
0--1,400 sq. ft.	None
1,401--20,000 sq. ft.	1 space
20,001--100,000 sq. ft.	1 space plus 1 space for each 40,000 sq. ft. in excess of 20,000 sq. ft.
100,001--500,000 sq. ft.	5 spaces plus one 1 space for each 40,000 sq. ft. in excess of 100,000 sq. ft.
Over 500,000 sq. ft.	15 spaces plus 1 space for each 80,000 sq. ft. in excess of 500,000 square feet.

- (c) *Orientation of Overhead Doors.* Overhead doors for truck loading areas shall not face a public right-of-way and shall be screened to not be visible from a public street or an adjacent residential district.

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**1266.01 Purpose**

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The regulations of this chapter are intended to protect and further the health, safety and welfare of the residents of the Village of Yellow Springs; to maintain and improve the appearance of the community; to conserve community character; to prevent traffic hazards; to provide safe conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location and number of signs. It is further determined that to allow signs of excessive number and size in the Village would unduly distract pedestrians and motorists, create traffic hazards and reduce the effectiveness of signs needed to direct the public. The regulations of this chapter are intended to provide reasonable identification for businesses and other uses within the community; but are not intended to serve as a means of advertising.

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**1266.02 General Provisions**

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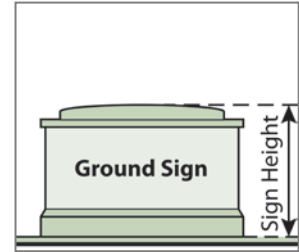
The following regulations are applicable to all signs in all zoning districts.

(a) *Sign Structure and Placement.*

- (1) Signs shall be constructed to withstand all wind and vibration forces which can normally be expected to occur.
- (2) Signs shall not be placed in, upon or over any public right-of-way, alley, or other place, except as may be otherwise permitted by the Yellow Springs Village manager or Ohio Department of Transportation (ODOT).
- (3) A light pole, utility pole, tree, fence or other supporting member shall not be used for the placement of any sign, except as may be specifically permitted by this chapter.
- (4) A sign shall not be erected in any location where it may, by reason of its position, shape, color, lighting or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
- (5) No sign shall be placed in a manner as to obstruct any fire escape, any required exit, door or window or any ventilation system or other operational necessities of a building.
- (6) A sign attached to a building shall not be placed in any location that would cause significant architectural features of a building to be covered, hidden or obscured.
- (7) A wall sign shall not extend past the edge of the wall to which it is affixed and no wall sign shall extend above the roof line of a building.
- (8) A sign and its supporting mechanism shall not extend beyond any lot lines of the property on which it is located.
- (9) All signs shall be stationary and shall pertain only to the business or activity conducted on the premises, except for permitted community special event signs.
- (10) One changeable message display may be permitted on either a permitted freestanding ground sign or wall sign on a parcel, within the maximum size limits permitted for the sign; provided the message is static and is not changed more than once in any 12 hour period.



- (11) Any vehicle which, in the opinion of the zoning administrator, has the intended function of serving as a sign shall conform to the provisions of *Section 1266.04(f)*.
- (b) *Measurement of Sign Area.* No sign shall exceed the maximum sign area allowed for the district in which it is located. The sign area is to be expressed in square feet, computed to the nearest tenth of a square foot, and shall be calculated as follows:
- (1) *Area.* The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
  - (2) *Double-Faced sign.* The area of a ground or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two faces are placed back-to-back and are no more than two feet apart at any point, the area of one face shall be counted toward the maximum size requirement. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
  - (3) *Wall sign.* For a sign consisting of individual letters and/or a logo affixed directly onto a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
  - (4) *Height.* The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.
  - (5) *Multi-Tenant Buildings.* For buildings with multiple tenants, the sign area for wall, projecting, canopy or awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing the sign requirements for that portion of the total wall.
- (c) *Illumination and Movement.*
- (1) Unless otherwise provided, signs shall not be illuminated internally. The source of the light for externally illuminated signs shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property and shall be directed in a downward manner to prevent light pollution into the night sky.
  - (2) A sign shall not contain any moving or animated parts including lighting, nor have the appearance of having moving or animated parts, except for time and temperature signs, standard sized barber pole signs, scoreboards and gasoline price signs as otherwise permitted.
  - (3) Neon signs shall only be permitted within the B-1 District, but not within 50 feet of a Residential District unless the sign is not visible from adjacent property within the Residential District.



### 1266.03 Signs Not Requiring Permits

The following signs shall not require a permit, as otherwise required by *Section 1266.06*, but shall be subject to all other applicable general requirements of this chapter.

<b>Table 1266.03 Signs Exempt from Permit</b>	
<b>Type of Sign</b>	<b>Requirements</b>
<b>Address sign</b>	Numeral height no greater than six inches for residences and 18 inches for businesses and other nonresidential uses.
<b>Barber Pole</b>	The bottom of the barber pole must be at least 8 feet from the ground or sidewalk and the top must be lower than the height of the building. The barber pole must not extend more than 12" from the exterior face of the wall to which it is attached. Placement within any ROW requires approval by either the Village manager or ODOT.
<b>Bulletin Board</b>	Not over 20 square feet in area for public, charitable, or religious institutions; provided that if such signs are electrically illuminated, an electrical permit must be obtained.
<b>Device sign</b>	Permanent signs on gas pumps or ice containers indicating only the contents of such devices, provided that the sign area of each device shall not exceed three square feet in area, limit of one sign per vending machine, gas pump or ice container.
<b>Directional sign</b>	The sign shall not exceed two square feet in area and three feet in height; shall be set back from the street right-of-way line and the edge of any driveway at least five feet; and may contain a logo or trademark up to one-third of the sign area, but shall not contain a name or commercial message. Only words such as "enter," "exit," "one way," "do not enter," and similar traffic directions may be displayed.
<b>Employment sign</b>	"Help wanted" signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall be six square feet with a maximum height of four feet.
<b>Flag</b>	Flags or insignia of any nation, state, local government, community organization or educational institution.
<b>Garage and Estate Sale</b>	Garage sale and estate sale signs announcing the sale of household goods, provided the following: A maximum of four signs may be placed off-premise and one on-premise; the signs shall not exceed four square feet in area and three feet in height above grade; the signs shall not be affixed to other signs, utility poles, fire hydrants or trees; the signs are erected no more than three days before and removed within one day after the announced sale.
<b>Historic Marker</b>	Historical marker including plaques or signs describing a property's designation as a historical site or structure and containing narrative, not exceeding 2 square feet in area, unless an official state or federal historical marker.
<b>Incidental sign</b>	Incidental signs not exceeding a total of two square feet, a total of two signs per business indicating acceptance of credit cards, the location of restrooms, restrictions on smoking and restrictions on building entrances or describing business affiliations and are attached to a permitted sign, exterior wall, building entrance, or window.
<b>Interior sign</b>	Any sign which is located completely within an enclosed building, and which is not visible from outside the building or which is primarily directed at persons within the premises upon which the sign is located.

<b>Table 1266.03 Signs Exempt from Permit</b>	
<b>Type of Sign</b>	<b>Requirements</b>
<b>Memorial sign</b>	Memorial signs or tablets not exceeding two square feet in area, having the name of a building and/or the date of erection and cut, cast or engraved into a masonry or metal surface and made an integral part of the structure.
<b>Murals</b>	Murals not containing any logos, product or service representations are exempt; provided, the name of the use, business or entity located on the premises to which the mural is affixed may be displayed if it occupies no more than ten percent of the area of the mural. Any other mural shall be regulated as a wall sign.
<b>Nameplate</b>	Signs identifying the occupants of the building and/or their profession, provided the sign shall not exceed two square feet in area; the sign must be attached to an exterior building wall.
<b>Political sign</b>	Signs shall not be placed in the street right-of-way.
<b>Real Estate sign</b>	Only one sign is permitted per lot. However, two signs are permitted if the lot is a corner lot; The size of each sign may not exceed four square feet per side and a maximum height of four feet for single family and two family dwellings or 16 square feet per side and a maximum height of eight feet for all other uses; They must be non-illuminated. The sign shall not be affixed to other signs, utility poles, fire hydrants or trees; The sign must be located outside of the public right-of-way; and The sign must be removed within 30 days of the property's sale or lease.
<b>Real Estate Open House sign</b>	A maximum of two signs may be placed off-premise and one on-premise; The signs shall not exceed four square feet in size and three feet in height above grade; The signs shall not be affixed to other signs, utility poles, fire hydrants or trees; Any person or firm placing the signs shall obtain the written permission from the owner or occupant of all properties on which the signs are placed; The sign shall not be displayed for more than eight hours per day; and The signs must be removed within one hour following closing of the open house.
<b>Religious Symbols</b>	Religious symbols incorporated into the architecture on places of worship or structures owned and operated by religious organizations shall not be considered a sign unless accompanied by text.
<b>Residential Contractor</b>	One temporary sign identifying the contractor performing major home repairs or remodeling such as roofing, siding, landscaping and similar work of limited duration. The sign shall be a maximum of four square feet in area and three feet in height. It shall be located on the premises where the work is being performed and shall be removed within two weeks of completion of the work.
<b>Scoreboards</b>	Used in conjunction with a legally established sports field;

<b>Table 1266.03 Signs Exempt from Permit</b>	
<b>Type of Sign</b>	<b>Requirements</b>
	not exceeding 20 feet in height above the ground; not exceeding 100 square feet in area; and the scoreboard is single sided.
<b>Sign on Vehicle</b>	Signs on a bus, truck, trailer, or other vehicle while operated and used for transport in the normal course of a business, provided that the primary use of the vehicle displaying the sign shall not be for the purpose of advertising a business on the premises where the vehicle is parked.
<b>Traffic Control sign</b>	Traffic or other municipal signs, legal notices, danger signs and such temporary emergency or non-advertising signs, or private traffic control signs which conform to the requirements of the Manual of Uniform Traffic Control Devices and as may be approved by the Village.
<b>Warning sign</b>	Publicly authorized warning signs, such as no trespassing, warning of electrical currents or animals, provided the sign does not exceed two square feet in area.
<b>Temporary Window sign</b>	The total area of all signs within one foot of the window shall not obscure more than 25 percent of the window area.

#### **1266.04 Prohibited Signs**

Signs not specifically allowed under this chapter, unless exempt per *Section 1266.03*, are prohibited in the Village of Yellow Springs. Further, the following sign types are expressly prohibited:

- (a) Balloons, balloon signs, strings of light bulbs, pennants, streamers, banners or flags, except banners or flags specifically permitted by the Village manager related to permitted events.
- (b) Any sign, including window signs, employing flashing, moving or oscillating lights, excluding time-temperature signs
- (c) Internally lit signs, with the exception of permitted neon signs that comply with the applicable regulations.
- (d) Roof signs
- (e) Pole signs
- (f) Off-premise signs, except for community special event signs
- (g) Billboard signs.
- (h) Portable trailer signs
- (i) The use of vehicles, trailers or similar movable structures as signs is prohibited when the vehicle, trailer or similar movable structure is parked on public or private property within 50 feet of any property line abutting a public street, except for those:
  - (1) Lawfully parked overnight or during non-business hours in a place not visible from a public street or designated truck parking or loading area;
  - (2) Making deliveries, sales calls, or other customary practices relating to doing business;
  - (3) Making trips to transport persons or property;
  - (4) In conjunction with active construction operations on the site; or

- (5) Passenger vehicles, pick-up trucks, and vans, containing signs that do not exceed sixteen (16) square feet in area painted on or permanently affixed to the doors or integral body panels and such vehicles are of a size that can fully fit within a standard parking space.

### 1266.05 Permitted Signs

The following signs are permitted in combination, unless noted otherwise, in each district, subject to the requirements described in *Table 1266.05*, issuance of a sign permit and all other applicable regulations. In any B or I district, a maximum of two types of signs and three total signs per principal building shall be permitted on any lot, regardless of the number of tenants.

<b>Table 1266.05 Schedule of Permitted Signs by District</b>	
<b>Conservation District</b>	
<b>Ground sign for non-residential uses</b>	
Number	One per street frontage
Size	8 square feet
Location	Minimum 10 feet from front lot line, Minimum 50 feet from all other lot lines
Height	Six feet maximum
<b>Wall sign for non-residential uses</b>	
Number	One per street frontage, but only one per wall
Size	Five percent of wall area to which it is attached, not exceeding 12 square feet
Location	Mounted flat against the wall
<b>Residential Districts</b>	
<b>Gateway sign</b>	
Number	One per street frontage
Size	24 square feet
Location	Minimum 15 feet from all lot lines
Height	Six feet maximum
<b>Development sign – Promoting a newly-developed subdivision of at least ten dwelling units.</b>	
Number	One non-illuminated
Size	Maximum 48 square feet
Location	Minimum ten feet from all property lines
Height	Eight feet maximum
Other	May be in place for up to one year from the date the subdivision record plan is recorded
<b>Ground sign for non-residential principal uses</b>	
Number	One
Size	24 square feet
Location	Minimum ten feet from front lot line, Minimum 10 feet from all other lot lines
Height	Six feet maximum
<b>Wall sign for non-residential principal uses</b>	
Number	One per street frontage, but only one per wall
Size	Five percent of wall area to which it is attached, not exceeding 64 square feet
Location	Mounted flat against the wall
<b>Permitted Home Occupations</b>	
Number	One non-illuminated sign identifying the home occupation.

<b>Table 1266.05 Schedule of Permitted Signs by District</b>	
Size	Maximum two square feet in area-
Type	Ground, projecting or wall signs
Location	If a ground sign is utilized it must be setback from the front lot line a minimum of ten feet-
<b>Educational-Institution District</b>	
<b>Gateway sign</b>	
Number	One per street frontage
Size	24 square feet
Location	Minimum 15 feet from all lot lines
Height	Six feet maximum
<b>Ground sign</b>	
Number	One per street frontage
Size	32 square feet
Location	Minimum ten feet from front lot line, Minimum 10 feet from all other lot lines
Height	Six feet maximum
<b>Wall sign</b>	
Number	One per street frontage, but only one per wall
Size	Five percent of wall area to which it is attached, not exceeding 64 square feet
Location	Mounted flat against the wall
<b>Business Districts</b>	
<b>Business Center sign (B-2, General Business District only)</b>	
Number	One per property. No other freestanding sign shall be permitted on the property for individual businesses-
Size	48 square feet
Location	Minimum ten feet from front lot line, Minimum 25 feet from all other property lines
Height	Six feet maximum
<b>Canopy, Projecting or Awning sign (B-1, Central Business District only)</b>	
Number	One per business
Size	Eight square feet maximum
Location	Projecting out from building wall not more than three feet
Height	A clearance of at least eight feet is required between the sidewalk and the bottom of the sign-
<b>Gateway sign (B-2 General Business District only)</b>	
Number	One per street frontage
Size	24 square feet
Location	Minimum 15 feet from all lot lines
Height	Six feet maximum
<b>Ground sign (B-2 General Business District only)</b>	
Number	One per street frontage
Size	32 square feet
Location	Minimum ten feet from front lot line, Minimum 50 feet from all other lot lines
Height	Six feet maximum
<b>Marquee sign (B-1, Central Business District only)</b>	
Number	One per business
Size	48 square feet maximum
Location	Projecting out from building wall not more than six feet
Height	A clearance of at least eight feet is required between the sidewalk and the bottom of the sign-

<b>Table 1266.05 Schedule of Permitted Signs by District</b>	
Other	Flashing lights are not permitted
<b>Wall sign</b>	
Number	One per street frontage, but only one per wall
Size	Five percent of wall area to which it is attached, not exceeding 25 square feet total aggregate for wall signs
Location	Mounted flat against the wall
<b>Window sign</b>	
Size	Permanent window signs are limited to 25 percent coverage of the window that they are posted within.
<b>Mixed Industrial and Industrial Districts</b>	
<b>Business Center sign (I-1, Industrial District only)</b>	
Number	One per property. No other freestanding sign shall be permitted on the property for individual businesses.
Size	48 square feet
Location	Minimum ten feet from front lot line, Minimum 25 feet from all other property lines
Height	Six feet maximum
<b>Gateway sign</b>	
Number	One per street frontage
Size	24 square feet
Location	Minimum 15 feet from all lot lines
Height	Six feet maximum
<b>Ground sign</b>	
Number	One per street frontage
Size	32 square feet
Location	Minimum ten feet from front lot line, Minimum 50 feet from all other lot lines
Height	Six feet maximum
<b>Wall sign</b>	
Number	One per street frontage, but only one per wall
Size	Five percent of wall area to which it is attached, not exceeding 64 square feet
Location	Mounted flat against the wall
<b>All Districts</b>	
<b>Community Special Event sign</b>	
Number	No limit
Size	24 square feet maximum
Location	On or off the property on which the event will occur; set back at least 15 feet from any side or rear property line and set back from the front property line the same distance as required for a ground sign in the district in which the sign is located
Height	Six feet maximum
Other	The sign shall be installed no more than ten days prior to the scheduled event and must be removed within 48 hours of the event's conclusion
<b>Construction sign</b>	
Number	One per street frontage, but only one on each street
Size	32 square feet maximum
Location	Minimum six feet from all street right-of-way lines and at least ten feet from any other lot line
Height	Ten feet maximum
Other	The sign shall be posted from the time the building permit is issued and removed within ten days after a certificate of occupancy is issued for the building to which the

**Table 1266.05 Schedule of Permitted Signs by District**

	sign refers or when at least 50% of the lots within a development have been sold.
<b>Temporary sign</b>	
Number	One per street frontage, but only one on each street
Size	32 square feet
Location	Minimum five feet from front lot line
Height	Six feet maximum
Other	Temporary signs may be displayed for a maximum of 21 consecutive days for any single permit period and a maximum of three permit periods may be permitted in a calendar year. The sign shall be removed by the permit holder upon expiration of the permit period.

### 1266.06 Sign Permits

- (a) *Permits Required.* A sign permit shall be required for the erection, use, construction or alteration of all signs, except those specifically exempted by *Section 1266.03*. For purposes of this section alteration shall mean any change to an existing sign including changing the copy to promote, advertise, or identify another use. Alteration shall not mean normal maintenance of a sign nor apply to changeable message signs.
- (b) *Electrical Signs.* All signs requiring electrical service shall be reviewed for compliance with the applicable electrical code. Approval of signs requiring electrical service shall be noted on or attached to the sign permit.
- (c) *Issuance of Sign Permit.* The zoning administrator shall issue a sign permit if all provisions of this code and other applicable Village regulations are met. A sign authorized by a permit shall be installed or be under construction within six months of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon filing of a new application and fee.

### 1266.07 Application Procedure

An application for a sign permit shall be made to the zoning administrator along with a fee as established by the Village Council. The application, at a minimum, shall include the following:

- (a) Name, address, and telephone number of applicant and the person, firm or corporation erecting the sign.
- (b) Address or permanent parcel number of the property where the sign will be located.
- (c) A sketch showing the location of the building, structure, or lot upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures along with setback from lot lines.
- (d) Two sets of plans and specifications showing all dimensions, method of construction, and attachment to structures or ground.
- (e) The zoning district in which the sign is to be located.
- (f) Any other information which the zoning administrator may require in order to determine compliance with this code.
- (g) Signature of applicant or person, firm or corporation erecting the sign.

### 1266.08 Inspection and Maintenance

- (a) *Sign Inspection.*



- (1) Responsibility for Compliance. The owner of any property on which a sign is located is declared to be responsible for the permit, erection, inspection, safety, condition, and removal of a sign.
  - (2) Inspection of New Signs. All signs for which a permit has been issued shall be inspected by the Greene County building official when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable requirements of all codes.
  - (3) Inspection Before Enclosure. In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the Greene County building official when such fastenings are to be installed so that inspection may be completed before enclosure.
  - (4) Inspection of Existing Signs. The Greene County building official may, at such times as deemed necessary, inspect any sign allowed under this section and, if upon inspection, a sign is found to be unsafe or in a condition that does not comply with all the provisions of this section, the Greene County building official shall give notice of that condition to the owner of the sign and cause the necessary repairs or alterations to be made, or require removal of the sign.
- (b) *Sign Maintenance.*
- (1) Maintenance of Signs. All signs for which a permit is required, as well as those that are exempt from the requirement of a permit, as set forth in *Section 1266.03*, , and all structural supports shall:
    - A. be kept in compliance with the plans and specifications filed and approved for issuance of the construction permit;
    - B. be kept and maintained in a safe condition, consistent with adopted building and mechanical codes; and
    - C. at all times conform to all provisions of this chapter.
  - (2) Correction of Defects. If the Greene County building official finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, the owner of the sign shall make the sign safe and secure by completing any necessary reconstruction or repairs, or entirely remove the sign in accordance with the timetable established by the Greene County building official. Existing signs determined to be unsafe and an immediate hazard to health or safety shall be removed or repaired within 12 hours of notification.
  - (3) Obsolete Signs.
    - A. Signs which are no longer functional, in disrepair, or are abandoned for more than 60 days, shall be removed, at the expense of the owner of the property on which the sign is located, within 30 days following notice of non-compliance. The owner shall be notified by certified mail. If the sign is not removed within 30 days, the Village manager may cause the sign to be removed and assess the cost of removal against the property.
    - B. A sign which no longer identifies a use, product, business or entity located on the property, but is otherwise in conformity with the other provisions of this ordinance, may remain in place if the sign face is completely covered or obscured by a blank panel attached within the frame of the sign. In such case, the sign shall be permitted to remain for a period not to exceed 120 days. Following expiration of the 120 days, the sign shall be removed, at the expense of the owner of the property on which the sign is located, unless identifying a new use, product, business or entity located on the property.

- (c) *Sign Removal.* The Village manager may obtain a court order to compel removal of a sign that is obsolete or otherwise in violation of this section. The cost of removal shall be added as a lien on the property tax rolls.

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**1266.09 Fees**

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Any application for a sign permit or other request for action pursuant to the regulations of this chapter shall be subject to and accompanied by a fee as established by the Village Council. Such fees shall be collected in advance of any application review, inspection, or issuance of any permit or approval. Upon notification of deficient payment of fees, the building official shall cause any permits to be suspended and reject applications for new permits directly associated with the request.

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**1266.10 Nonconforming Signs**

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- (a) Any permanent sign or sign structure which was legally established, but no longer conforms to the height, size, area or location requirements of this chapter is deemed to be nonconforming.
- (b) Nonconforming signs may not be altered, expanded, enlarged, or extended; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.
- (c) For the purposes of this chapter, a nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing nonconforming status.
- (d) Any nonconforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than 50 percent of the value of the sign on the date of the loss.
- (e) Any sign which for a period of sixty days or more no longer identifies a bona fide business conducted or product sold on the premises shall be removed by the owner of the building, structure, or property upon which the sign is located within 30 days of receipt of written notice from the zoning administrator.
- (f) A sign accessory to a nonconforming use on the premises may be erected, in accordance with the sign regulations for the district in which the property is located.

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**1268.01 Purpose**

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The purpose of this chapter is to establish a uniform set of requirements for the planning and design of developments within the Village in order to achieve the following objectives: to determine compliance with the provisions of this code; to promote the orderly development of the Village; to prevent depreciation of land values; to ensure a consistent level of quality throughout the community; to ensure a harmonious relationship between new development and the existing natural and manmade surroundings; to achieve the goals and principles of the Yellow Springs Comprehensive Plan and Vision: Yellow Springs and Miami Township; to promote consultation and cooperation between applicants and the Village in order that applicants may accomplish their objectives in the utilization of land, consistent with the public purposes of this code and the comprehensive plan and vision.

**1268.02 Applicability**

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Site plan review shall be required, as applicable, under the following conditions, unless exempted by *Section 1268.03*:

- (a) *Level "A" Review.* The zoning administrator shall review site plans in connection with the creation of a use or the erection of a building or structure in any of the following circumstances:
- (1) Any "permitted" use within any zoning district, if the proposed building is less than 5,000 square feet.
  - (2) Additions to existing buildings or parking areas in any zoning district.
  - (3) Changes in the use of any existing building in any zoning district; provided the use is a "permitted" use in that zoning district.
  - (4) When, in the opinion of the zoning administrator, a project which otherwise qualifies for level "A" site plan review may have a negative impact on surrounding properties, the zoning administrator may, at their discretion, submit the site plan to the Planning Commission for review. In such cases, the Planning Commission shall follow the review procedure for level "B" site plans and may require any additional information needed to make an informed decision.
- (b) *Level "B" Review.* The Planning Commission shall act upon all site plans, other than those provided for level "A" review, in connection with the creation of a use or the erection of a building or structure in any of the following circumstances:
- (1) Any "permitted" use within any zoning district occupying a building of 5,000 square feet or more.
  - (2) Any "conditional" use in any district.
  - (3) Any Planned Unit Development.
  - (4) As otherwise required by this code.

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**1268.03 Exemptions**

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Site plan review shall not be required for a single or two-family dwelling on a lot on which there exists no other building or use, or for any home occupation or accessory building in a residential district. However, a zoning permit, in accordance with Section 1272.01, shall be required.

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**1268.04 Application and Review**

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The process of reviewing a site plan shall be as follows:

- (a) Level "A" reviews shall be performed by the zoning administrator as follows:
- (1) Five copies of a complete site plan and an electronic version, in a format specified by the Village, shall be submitted to the zoning administrator along with an application for that purpose and a fee, as established by the Village Council.
  - (2) The zoning administrator shall review the site plan for completeness, and shall obtain comments from Village departments or other relevant review agencies or consultants.
  - (3) The zoning administrator shall consider the site plan, any comments received, and the applicable standards of this code, and shall either approve the site plan, as submitted, if all applicable requirements and standards have been met; approve the site plan with conditions; or deny approval of the site plan, if applicable requirements and standards have not been met.
  - (4) The reasons for the zoning administrator's action, along with any conditions that may be attached, shall be stated in writing and provided to the applicant.
  - (5) If approved, two copies of the site plan shall be signed and dated by the zoning administrator and the applicant. One copy shall be kept on file with the Village and one copy shall be returned to the applicant or his/her designated representative. If the plan is approved with conditions, two copies of the revised site plan shall be submitted reflecting those conditions and shall be signed and dated by the applicant and zoning administrator, one copy shall be kept on file with the Village and one copy shall be returned to the applicant or his/her designated representative, prior to issuance of any permits.
- (b) Level "B" reviews shall be performed by the Planning Commission as follows:
- (1) Ten copies of a complete site plan and an electronic version, in a format specified by the Village, shall be submitted to the zoning administrator along with an application for that purpose and a fee, as established by the Village Council.
  - (2) The zoning administrator shall review the site plan for completeness, and shall obtain comments from the Village departments or other relevant review agencies or consultants.
  - (3) Once the zoning administrator determines that the site plan is complete, the site plan shall be transmitted to the Planning Commission for consideration at its next meeting. The zoning administrator shall not be required to submit any site plan for review which was submitted less than 20 days prior to the next regularly scheduled Planning Commission meeting. Comments, if any, from Village departments or others shall be transmitted to the Planning Commission prior to its review of the site plan.
  - (4) The Planning Commission shall consider the site plan and shall either approve the site plan, as submitted, if all applicable requirements and standards have been met; approve the site plan with conditions; or deny approval of the site plan

if applicable requirements and standards have not been met. The Planning Commission review shall be based on the requirements of this chapter, comments received from Village departments and others, and, specifically, the review standards of *Section 1268.06*.

- (5) If approved, two copies of the site plan shall be signed and dated by the chairperson of the Planning Commission and the applicant. One copy shall be kept on file with the Village and one copy shall be returned to the applicant or his designated representative. If the plan is approved with conditions, two copies of the revised site plan shall be submitted reflecting those conditions and shall be signed and dated by the applicant and the Planning Commission chairperson, one copy shall be kept on file with the Village and one copy shall be returned to the applicant or his/her designated representative, prior to issuance of any permits.

**1268.05 Site Plan Requirements**

- (a) *Required Content.* Each site plan submitted shall contain the following information, as applicable:

Table 1268.05 Required Site Plan Content		
Required Information	Level “A”	Level “B”
<b>General Information</b>		
Date, north arrow, and scale	X	X
Name and firm address of the professional individual responsible for preparing site plan	X	X
Name and address of the property owner or petitioner	X	X
Location sketch	X	X
Legal description of the subject property	X	X
Size of subject property in acres or square feet	X	X
Boundary survey	X	X
Preparer’s professional seal		X
<b>Existing Conditions</b>		
Existing zoning classification of subject property	X	X
Property lines and required setbacks (dimensioned)	X	X
Location, width and purpose of all existing easements	X	X
Location and dimension of all existing structures on the subject property	X	X
Location of all existing driveways, parking areas and total number of existing parking spaces on subject property	X	X
Abutting street right-of-way width	X	X

**Table 1268.05 Required Site Plan Content**

<b>Required Information</b>	<b>Level “A”</b>	<b>Level “B”</b>
Location of all existing structures, driveways, and parking areas within 300 feet of the subject property’s boundary		X
Existing water bodies (rivers, creeks, wetlands, etc.)	X	X
Existing landscaping and vegetation on the subject property		X
Size and location of existing utilities	X	X
Location of all existing surface water drainage facilities	X	X
<b>Proposed Development</b>		
Location and dimensions of all proposed buildings	X	X
Location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, walls, fences, signs, exterior lighting, curbing, parking areas (including dimensions of a typical parking space and the total number of spaces to be provided), and loading and unloading areas	X	X
Type and location of exterior mechanical equipment and published operating noise level of the equipment.	X	X
Setbacks for all buildings and structures	X	X
Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use		X
Flood plain areas and basement and finished floor elevations of all buildings		X
Landscape plan (showing location of proposed materials, size and type)		X
Layout and typical dimensions of proposed parcels and lots		X
Number of proposed dwelling units (by type), including typical floor plans for each type of unit		X
Number and location (by code, if necessary) of efficiency and one, two and three or more bedroom units		X
All deed restrictions or covenants		X
Brief narrative description of the project including proposed use, existing floor area (square feet), size of proposed expansion (square feet), and any change in the number of parking spaces	X	X
<b>Engineering</b>		
Proposed method of handling sanitary sewage and providing potable water	X	X
Location and size of proposed utilities, including connections to public sewer and water supply systems	X	X
Location and spacing of fire hydrants and fire department connections		X

**Table 1268.05 Required Site Plan Content**

Required Information	Level “A”	Level “B”
Location and type of all proposed surface water drainage facilities	X	X
Grading plan at no more than two foot contour intervals		X
Proposed streets (including pavement width, materials, and easement or right-of-way dimensions)		X
<b>Building Details</b>		
Typical elevation views of all sides of each building type		X
Gross and net floor area	X	X
Elevation views of building additions	X	X
Building height	X	X
<b>Additional Information</b>		
Any other information required by the zoning administrator or Planning Commission and/or Board of Zoning Appeals to demonstrate compliance with other applicable provisions of this ordinance	X	X

- (b) *Information Waiver.* Specific requirements of either a Level “A” or “B” site plan may be waived by the respective reviewer (zoning administrator or Planning Commission) where it is determined that such information is not applicable to the subject request.

## 1268.06 Review Standards

A site plan shall be approved only upon a finding of compliance with the following standards:

- (a) The site plan must comply with all standards of this chapter and all applicable requirements of this code and all other applicable laws and regulations.
- (b) The site must be designed in a manner that is harmonious, to the greatest extent possible, with the character of the surrounding area.
- (c) The site must be designed so as to minimize hazards to adjacent property, and to reduce the negative effects of traffic, noise, smoke, fumes and glare to the maximum extent possible.
- (d) Unless a more specific design standard is required by the Village through a different code, all uses and structures subject to site plan review shall comply with the following design standards:
  - (1) Traffic Circulation. The number, location, size of access and entry points, and internal vehicular and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, and circulation within the site. In reviewing traffic features, the number, spacing, and alignment of existing and proposed access points shall be considered relative to their impact on traffic movement on abutting streets and adjacent properties.
  - (2) Storm Water. Storm water detention and drainage systems shall be designed so that the removal of surface waters will not adversely affect neighboring properties

or public storm water drainage systems. Unless impractical, storm water shall be removed from all roofs, canopies and paved areas by underground surface drainage system. Low Impact Design solutions, however, such as rain gardens and green roofs are encouraged.

- (3) Landscaping. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing unnecessary tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Provision or preservation of landscaping, buffers or greenbelts may be required to ensure that the proposed uses will be adequately buffered from one another and from surrounding property. Top soil shall be left in tact or stored on site, using best management practices, for site restoration upon completion of the project.
- (4) Screening. Where non-residential uses abut residential uses, appropriate screening shall be provided, in accordance with *Chapter 1270*, so as to shield residential properties from noise, headlights, lighting and glare.
- (5) Lighting. Lighting shall be designed to minimize glare on adjacent properties and public streets. As a condition of site plan approval, reduction of lighting during non-business hours may be required.
- (6) Utility Service. All utility service shall be underground, unless impractical.
- (7) Exterior Uses. Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, utility buildings and structures, and similar accessory areas shall be located to have a minimum negative effect on adjacent properties, and shall be visually and acoustically screened, if reasonably necessary, to ensure compatibility with surrounding properties.
- (8) Emergency Access. All buildings and structures including any fire department connections shall be readily accessible to emergency vehicles.
- (9) Water and Sewer. Water and sewer installations shall comply with all Village specifications and requirements.
- (10) Signs. Permitted signs shall be allowed, in accordance with *Chapter 1266*, and shall be located to avoid creating distractions, visual clutter and obstructions for traffic entering or exiting a site.

### **1268.07 Conditions**

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Conditions which are designed to ensure compliance with the intent of this code and other regulations of the Village of Yellow Springs may be imposed on site plan approval.

### **1268.08 Changes to an Approved Site Plan**

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Changes to an approved site plan shall be permitted only under the following circumstances:

- (a) The holder of an approved site plan shall notify the zoning administrator of any proposed change to an approved site plan.
- (b) Changes to a Level "A" site plan may be approved by the zoning administrator.
- (c) Minor changes to a Level "B" site plan may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - (1) Reduction in building size or increase in building size up to five percent of total approved floor area.
  - (2) Movement of buildings or other structures by no more than ten feet.



- (3) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
  - (4) Changes in building materials to a comparable or higher quality.
  - (5) Changes in floor plans which do not alter the character of the use.
  - (6) Changes required or requested by the Village or county, state, or federal regulatory agency in order to conform to other laws or regulations.
- (d) A proposed change to a Level “B” site plan, not determined by the zoning administrator to be a minor change, shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.

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**1268.09 Expiration**

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Site plan approval shall expire 12 months after the date of approval, unless substantial construction has been commenced and is continuing. The zoning administrator, in the case of a Level “A” site plan, or the Planning Commission, in the case of a Level “B” site plan, may grant one extension of up to 12 additional months; provided the applicant requests, in writing, an extension prior to the date of expiration of the site plan. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period. If the above provisions are not fulfilled or the extension has expired prior to construction, the site plan approval shall become null and void.

**1270.01 Purpose**

It is the purpose of this chapter to require landscaping to minimize the adverse effects of certain outdoor activities upon their surroundings and to improve the appearance of parking areas and street frontages within the community. It is further intended to preserve and enhance the aesthetic qualities, character, privacy, and land values of property within the Village of Yellow Springs.

**1270.02 Greenbelts and Parking Lot Landscaping**

- (a) *Greenbelts Required.* Greenbelts and landscaping shall be required in the following situations, except for parking areas within the B-1, Central Business District.
- (1) Along the street frontage, between the right-of-way line and the parking lot of any parking lot containing four or more spaces;
  - (2) Within any required parking setback area, and
  - (3) Within the interior of any parking lot containing 10 spaces or more.
- (b) *Greenbelt Standards for Front Setbacks.* Greenbelts shall meet the requirements of this chapter.
- (1) At a minimum, a required greenbelt shall contain one canopy tree, plus two additional canopy or understory trees for each 50 feet of road frontage.
  - (2) Trees within a required greenbelt may be clustered to create more visual impact and appeal, rather than uniformly spaced along the street.
  - (3) The minimum width of a required greenbelt shall correspond to the parking setback requirements prescribed for the district, but shall not be less than 10 feet.
  - (4) Landscaping shall be located so it does not obstruct the vision of drivers entering or leaving a site.
  - (5) Storm water detention/retention areas shall be permitted within required greenbelts; provided, they shall not hamper the screening intent of the greenbelt or jeopardize the survival of plants.
- (c) *Parking Lot Landscaping.* Where landscaping is required within parking lots, it shall meet the following requirements:
- (1) One tree for every 10 parking spaces shall be planted within the parking lot. Trees shall be canopy species. While drought tolerant native species are preferred, other species may be planted within parking areas if approved by the zoning administrator or Planning Commission, as applicable.
  - (2) Parking lots shall contain landscape islands. Each island shall be a minimum of ten feet wide, although islands may be combined to ensure a better environment for tree and plant growth. Each island shall be planted with a minimum of two trees to provide shade and to break up the visual monotony of large paved parking lots. Trees shall be planted at least three feet from the edge of the island to avoid contact with vehicles.

- (3) Landscaping shall be arranged so as not to obscure traffic signs or fire hydrants, or obstruct drivers' sight distance within the parking area and at driveway entrances.
- (4) All landscape areas shall be protected by raised curbs, parking blocks or other similar methods to prevent damage. Notwithstanding this requirement, alternative Low Impact Design solutions shall be encouraged.
- (5) Landscaping required for front yards which abut parking areas may apply toward up to 50 percent of the required parking lot landscaping.

### **1270.03 General Requirements**

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All required landscaping and greenbelts shall comply with the following requirements, in addition to all other applicable requirements of this chapter:

(a) *Minimum Plant Material Standards.*

- (1) All plant materials shall be hardy, free of disease and insects, and indigenous to Greene County.
- (2) Artificial plant material shall not be used within any required landscaped area. This shall not preclude the use of stone, shredded bark, wood chips, lava rock or similar accent materials within planting beds.
- (3) All plant material shall be installed in a manner that does not alter drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.
- (4) No substitution of plant species or sizes shall be allowed unless approved by the zoning administrator in writing.
- (5) All plant material shall be planted in a manner that will not cause damage to utility lines (above and below ground) and public roadways.
- (6) Existing plant material which complies with the standards and intent of this chapter may be credited toward meeting the landscape requirements.
- (7) The overall landscape plan shall not contain more than 33 percent of any one plant species.
- (8) Plant material shall not be placed closer than four feet to any fence or property line.
- (9) Where trees are placed in two or more rows, planting shall be staggered in rows.

(b) *Minimum Standards for Berms.*

- (1) If berms are constructed, they shall be constructed to maintain a side slope not to exceed a one foot rise to a three foot run ratio. When topography or other site conditions prevent construction of berms at this ratio, retaining walls or terracing may be permitted. If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.
- (2) Bermed areas not containing planting beds shall be covered with grass or other living ground cover maintained in a healthy condition.
- (3) Berms shall be constructed so drainage patterns on site or toward adjacent properties will not be altered and vision will not be obstructed for safety of ingress and egress.
- (4) If berms are used for any part of a screen or greenbelt, all required plant material shall be placed on the top and side slope facing the exterior property line.

(c) *Rain Gardens.* Rain gardens are encouraged as part of a site development and may be approved within a required greenbelt. If provided, rain gardens shall be prepared according to the following guidelines:

- (1) The purpose of the rain garden is to absorb rain water and to improve the attractiveness of the site.
- (2) The size of the rain garden shall be appropriate for the soils located on the site.
- (3) Soils used in the rain garden shall be appropriately prepared and amended following any compaction that may have occurred during construction.
- (4) The rain garden shall be graded to assure that rain water entering the garden will spread out over a large flat area and will soak into the soil.
- (5) To minimize hazards to pedestrians, the rain garden shall be graded so that at its deepest it is approximately six inches.
- (6) The rain garden is planted with native perennial flowers, grasses and sedges.
- (7) The rain garden shall be maintained with minimal or no fertilizers; no herbicides or pesticides will be used.

**1272.01 Zoning Permit Required**

- (a) A zoning permit shall be required and shall be obtained from the zoning administrator by the property owner or his or her agent:
- (1) Prior to the construction, occupancy or use of any proposed structure or addition to an existing structure, or prerequisite to the continued occupancy of a newly altered, reconstructed, enlarged or relocated structure.
  - (2) Prior to any change of use of any building or land, even if the changed use is of the same general type as its predecessor;
  - (3) Prior to the reoccupation or reuse of any nonresidential lot or structure, unless the zoning administrator finds that all of the following apply:
    - A. The reoccupation or reuse results in a land use that is authorized by right in the zoning district;
    - B. The reoccupation or reuse is of the same or less intensity of use than the predecessor use;
    - C. The reoccupation or reuse does not require any exterior changes to the approved site, other than signs or aesthetic changes (e.g., exterior painting, etc.); and
    - D. The reoccupation or reuse does not require a greater number of off-street parking spaces, according to *Chapter 1264*, than are provided on the site.
- (b) Any proposed use or construction outlined in subsection (a), above that requires review and approval for planned unit development, conditional use or site plan review shall be approved according to *Chapter 1254, 1262 or 1268*, as applicable, prior to issuance of a zoning permit.
- (c) No building permit or other permit required to allow construction and no certificate of occupancy shall be issued for any of the above, unless a zoning permit has been issued by the zoning administrator.
- (d) The zoning permit shall state that the plans for the proposed improvement, addition, relocation, change of use or reoccupancy/reuse have been inspected by the zoning administrator, have been approved according to the procedures outlined in this zoning code and are in compliance with the provisions of this code and other applicable regulations.
- (e) Upon written request from the owner or tenant, the zoning administrator shall issue a zoning permit for any building, structure or premises existing on the effective date of this zoning code that certifies, after inspection, the extent and kind of use made of the building, structure or premises and whether the use conforms to the provisions of this code.
- (f) A zoning permit shall not be required for the following:
- (1) An accessory structure on a lot zoned or used for residential purposes that is less than 144 square feet in ground floor area and no higher than 10 feet;
  - (2) A swing set or similar child's play structure;

- (3) Cosmetic (non-structural) changes to any structure, including the replacement of windows in existing openings, re-roofing, installation of siding material and repainting;
- (4) Resurfacing of existing parking lots without increasing the number of spaces;
- (5) Residential TV towers, satellite dishes and similar structures; and
- (6) Modifications to comply with accessibility requirements, unless proposed to encroach in a public right-of-way.

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**1272.02 Zoning Permit Process**

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- (a) In the case of a proposed planned unit development or conditional use, or for a site plan review, the application materials shall be as required by the applicable chapter (*Chapter 1254, Chapter 1262 or Chapter 1268*).
- (b) For all other requests, application shall be made on a form approved by the Village, along with the fee adopted by resolution of the Village Council.
- (c) The application shall be accompanied by a scale drawing of the site exhibiting existing and proposed improvements, as follows:
  - (1) All exterior lot lines, with dimensions based upon an actual survey
  - (2) Dimensions of existing and proposed buildings and structures
  - (3) Setback of all existing and proposed structures from property lines
  - (4) Required setback distances, according to the zoning district
  - (5) Height of existing and proposed buildings and structures
  - (6) Location of off-street parking, including dimensions of parking spaces and access aisles, and distance of parking areas from property lines
  - (7) Any other information deemed necessary by the zoning administrator to determine compliance with this code.
- (d) The zoning administrator may require that the proposed location of buildings and improvements be staked upon the lot prior to zoning permit approval, in order to determine compliance with this code.

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**1272.03 Zoning Permit Approval; Time Limit**

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- (a) If the zoning permit is approved, the zoning administrator shall certify a copy of the approved plans as approved and return it to the applicant, along with the approved permit. A true copy of the approved plans shall be retained by the zoning administrator.
- (b) For the purposes of obtaining a building permit, a zoning permit shall be valid for 12 months from the date of issuance. If a building permit is not obtained within that period, the zoning permit shall lapse and a new zoning permit request and approval is required before a building permit may be issued.
- (c) A building permit shall be obtained and substantial progress made within one year of issuance of the zoning permit, unless a different time period is specified elsewhere in this zoning code. If the project is not substantially complete within two years of issuance of the zoning permit, the zoning permit shall expire. The approving body for the original application (the zoning administrator, Planning Commission or Village Council, as applicable) may grant extensions of up to one year if the applicant can show that delays in completion of the project are due to circumstances not under control of the applicant (e.g., weather, delays in receiving materials, etc.).
- (d) Any permit or license issued in conflict with this zoning code shall be null and void.

**1272.04 Fees; Performance Guarantees**

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- (a) *Fees.* All applications and reviews subject to this zoning code shall be accompanied by a fee, according to a fee schedule adopted by resolution of the Village Council. Actions initiated by Village staff, the Planning Commission or Village Council shall not be subject to the fee.
- (b) *Performance Guarantees.* The Planning Commission, Board of Zoning Appeals or Village Council, as applicable, may require an applicant to deposit a performance guarantee to ensure compliance with this code, the completion of improvements and to protect natural resources and the health, safety and welfare of Village residents and the future users or inhabitants of the project.
- (1) A “performance guarantee” shall mean a cash deposit, certified check, letter of credit or other legal surety approved by the Village in an amount equal to the estimated cost for any improvements to be made, as determined by the applicant and confirmed and verified by a representative of the Village.
  - (2) The performance guarantee shall be deposited with the Village before any building permits can be issued. The treasurer shall retain the performance guarantee, in accordance with this section.
  - (3) When a performance guarantee is required as a condition of approval, the approving body shall also specify when the related improvement must be completed.
  - (4) As the project is constructed, the Village may rebate money to the applicant based on a reasonable proportion of the completed work, provided that at least ten percent shall be retained for each related element until the entire project has been satisfactorily completed. The Village may solicit the opinion of a civil engineer or other licensed professional in the State of Ohio to determine the value of the completed work.
  - (5) Once a project has been satisfactorily completed, as determined by the zoning administrator, and all the landscaping (if required) has been established, the treasurer shall return any remaining funds to the applicant. The Village may retain up to ten percent of the performance guarantee to cover any administrative or consultant costs directly associated with reviewing and/or inspecting any improvements.
  - (6) In the event an applicant does not make the improvements for which the performance guarantee was required within the established time period, or if improvements are not constructed in accordance with this zoning code and/or any required conditions and attempts to attain compliance are unsuccessful, the Village may enter the subject property and complete the improvements using the performance guarantee to cover costs.
  - (7) In the event an applicant does not make or complete the improvements and the performance guarantee is insufficient to allow the Village to complete them, the applicant shall be required to pay the Village an amount necessary to complete the improvements, plus any administrative or legal fees.

**1272.05 Enforcement; Penalty**

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- (a) *Penalties.* Any owner, person or entity that is found to be in violation or assists in the violation of this zoning code shall, for each violation or noncompliance, be guilty of a fourth degree misdemeanor and be subject to a fine of \$100. Each day during which a violation occurs shall be a separate offense.

- (b) *Enforcement Process.* The zoning administrator, along with such other person or persons necessary, shall enforce the provisions of the zoning code. The following process shall be followed in the enforcement of this code:
- (1) Upon complaint and/or credible information of a possible zoning code violation, based upon personal knowledge or other information, the zoning administrator will investigate the matter and submit a written report (including relevant photos of the violation, map of the property or other attachments) to the Village manager.
  - (2) If the zoning administrator believes there is probable cause that a violation has or is occurring, then he or she shall take one or more of the following actions to resolve the violation:
    - A. The zoning administrator may speak to the property owner and attempt to resolve the matter through discussion and/or request that the property owner work with the Village through the Village mediation program. If discussion and/or mediation resolves the matter, the zoning administrator shall inspect the property for compliance as soon as practical. If the zoning administrator does not believe that the mediation process is resolving or would resolve the matter, he/she does not have to engage in or continue with mediation.
    - B. In addition to, or in lieu of the mediation procedure, the zoning administrator may also send a certified letter to the property owner(s). Below the return address on the envelope, the words "Address Service Requested" will appear. Alternatively, the letter may be personally served in the same manner as a civil complaint. The letter shall cite the section number of the ordinance and the offense and explain what must be done to bring the property into compliance with the ordinance. The property owner will be given 30 days to bring the property into compliance. The property address and parcel identification number shall be referenced in the letter and any photos of the violation as it existed on the date of investigation shall also be included. The letter will be signed by the zoning administrator or other Village official who has direct knowledge of the violations.
    - C. The property will be inspected on or as soon as possible after the specified compliance date.
    - D. If the property owner(s) has not complied, the matter will be referred to the municipal prosecutor.
- (c) The Village may bring legal action to address any violation of this zoning code, any enforcement order of the zoning administrator, or any term or condition of a planned unit development, conditional use, site plan approval, variance or other entitlement issued under this code, or to collect unpaid fines.
- (d) The penalties associated with a violation of this zoning code are in addition to, not in lieu of, any other penalty applicable under Ohio law or any legal remedy available to the Village.



**1274.01 Office Established**

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The Village manager or Manager's designee shall interpret, enforce and administer this code .

**1274.02 Duties of the Zoning Administrator**

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The zoning administrator shall have the following duties:

- (a) Strictly interpret the provisions of this code, including the zoning map. The zoning administrator shall interpret and apply the provisions of this code to be the minimum requirements necessary to promote or advance the public health, safety, security and general welfare of the Village.
- (b) Receive and process applications for zoning permits where new construction is to be carried out.
- (c) Receive and process applications for zoning permits, according to *Section 1272.01(e)*, where no new construction is to be carried out or where new construction has just been completed.
- (d) Conduct inspections of buildings, structures and uses of land to determine compliance with this code, and, in the case of any violation, notify in writing the person or persons responsible, specifying the nature of the violation and ordering appropriate corrective action.
- (e) Enforcement of this code including notification of any violation, according to *Section 1272.05*.
- (f) Maintain and keep the *Official Zoning District Map* up to date, for inspection by the public.
- (g) Maintain permanent and current records required by this code, including zoning permits and such other official records as are not the specific responsibility of the clerk of council, and prepare and submit any reports that are necessary for communication of development data to official Village and outside agencies.
- (h) Serve as technical staff to the Planning Commission and the Board of Zoning Appeals.
- (i) Provide information on planning and zoning matters to elected and appointed officials and to the public.

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**1276.01 Planning Commission Established**

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The Planning Commission is established in accordance with Chapter 713 of the Ohio Revised Code and Article VII of the Charter of the Village of Yellow Springs, and shall have the duties and powers as provided by the Revised Code, the Charter and this chapter.

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**1276.02 Planning Commission Powers and Duties**

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In addition to the powers and duties granted in Chapter 713 of the Ohio Revised Code and by the Village Charter, the Planning Commission shall have the following powers and duties:

- (a) The Planning Commission and Village staff shall carry on a continuous review of the effectiveness and appropriateness of this code and recommend to Village Council any appropriate changes or amendments.
- (b) The Planning Commission shall hear and make recommendations to the Village Council regarding amendments to this code, including rezoning requests, following the procedure outlined in *Section 1280.03*.
- (c) The Planning Commission shall render decisions on conditional use applications and site plans, unless otherwise specifically provided.
- (d) The Planning Commission shall keep minutes of its proceedings showing the action of the commission and the vote of each member upon each question or, if absent or failing to vote, indicating as such. The commission shall act by resolution. Minutes and the records of all official actions shall be filed with the clerk of Council and kept as a public record.
- (e) The concurring vote of three Planning Commission members shall be necessary to take any action authorized by the code.
- (f) Before a zoning application is approved, the commission shall make an affirmative finding that specific provisions of controlling sections of the code have been met or exceeded.
- (g) The Planning Commission shall adopt rules and procedures governing its activities, which shall be filed with the Clerk of Council.

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**1276.03 Powers and Duties of the Village Council**

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With regard to this zoning code, the Village Council shall have the following powers and duties:

- (a) Upon receipt of a recommendation by the Planning Commission, the Village Council shall decide upon amendments to this code and amendments to the zoning map (rezoning), according to the procedure in *Section 1280.03*.
- (b) The Village Council shall hear and decide upon appeals of the decisions of the Planning Commission or the Board of Zoning Appeals, according to the following:

- (1) Appeals heard by the Village Council on decisions of the Board of Zoning Appeals or the Planning Commission shall be for the purpose of determining the adequacy of subordinate public body hearings, and may be brought by any affected property owner, tenant, governmental officer, department, board or bureau.
- (2) An appeal shall be filed within ten days of the rendering of the decision.
- (3) If hearings and records transmitted by the Board of Zoning Appeals or the Planning Commission are deemed adequate, its decision shall be affirmed.
- (4) The Village Council shall not solicit or allow additional evidence or testimony, but shall base its deliberations on the record of the subordinate hearings, except that the Council may question any of the parties represented in the record.
- (5) The record shall include all materials submitted by the appellant, by the zoning administrator, by any other reviewing body and by the public, together with the record of public hearings and meetings. The record of official public hearings and meetings shall consist of the written minutes and all attachments thereto. If a recording of the meeting is available, the appellant may, at his or her expense, request a transcript of the recording to be added to the record.
- (6) Fees paid in accordance with the fee resolution approved by the Village Council shall include a nonrefundable filing fee and a refundable fee that is forfeited upon Council affirmation of the decision of a subordinate body.
- (7) The burden shall be on the appellant to convince the Village Council that there has been an error in a previous decision because of procedural inadequacy.
  - A. "Procedural inadequacy" shall be broadly construed to include failure to adequately consider an important argument presented to a subordinate review body by the appellant, or a failure to follow proper procedure so that all participants may have a hearing before a fair and impartial panel.
  - B. The Village Council shall act as a check on subordinate decisions and as an additional local safeguard of due process.
- (8) Upon the concurring vote of a majority of a quorum of the Village Council, the Village Council shall decide an appeal by either:
  - A. Affirming the decision of the subordinate body, or
  - B. Remanding the decision back to the subordinate body for reconsideration based on specified procedural inadequacies.
  - C. The affirmation by Council of the decision of the subordinate body shall be considered a final administrative decision in the matter. If the matter is remanded to the subordinate body, the subsequent decision of the subordinate body shall be considered a final administrative decision and not subject to an additional appeal to Council.
- (9) Appeals hearings heard by Council shall be open to the public and announced in a newspaper of general circulation at least ten days before the hearing. No additional public comment shall be taken at this quasi-judicial proceeding.

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**1278.01 Appointment, Meetings and Quorum**

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- (a) A Board of Zoning Appeals shall consist of five members and shall be appointed in accordance with Article VII, Section 66 of the Village Charter. Members of the Board at the date of passage of this zoning code may continue to serve the full terms of their original appointments.
- (b) The Board of Zoning Appeals shall adopt rules and regulations for the conduct of its business, consistent with this code.
- (c) Meetings of the Board shall be held at such times as the Board may determine. All meetings shall be open to the public.
- (d) *Requirements for Meetings.*
  - (1) The presence of three members shall constitute a quorum.
  - (2) The Board shall keep minutes of its proceedings that record each action of the Board and the vote of each member upon each question or, if absent or failing to vote, indicating such fact.
  - (3) Minutes and the records of all official actions shall be filed with the clerk of Council and kept as a public record.

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**1278.02 Powers and Duties**

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In addition to any powers and duties granted the Board in the Village Charter, the Board of Zoning Appeals shall have the following powers and duties:

- (a) The Board shall hear administrative appeals from any affected or aggrieved person where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by an administrative official or body charged with the enforcement and administration of this zoning code.
- (b) Where there are practical difficulties preventing a property owner from conforming with the strict requirements of this code, the Board shall hear requests for area variances to the code's requirements.
- (c) The Board may approve the reconstruction of a nonconforming use or expansion of a nonconforming structure, according to *Section 1282.03*.
- (d) The Board shall not have the authority to grant a variance to permit the establishment of any use which is not otherwise permitted in a zoning district.
- (e) The Board shall have such other powers and duties as specified elsewhere within this code, or as directed by the Village Council, in accordance with the intent and purpose of this code.

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**1278.03 Application Procedures**

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- (a) All applications made to the Board shall be on a form approved by the Board and filed with the zoning administrator. The hearing shall be scheduled within a reasonable time, allowing for all required notifications. The application shall be accompanied by a fee in an amount determined by resolution of the Village Council and the following:

- (1) An application for an administrative appeal may be filed by any affected property owner, tenant, governmental officer, department, board or bureau and shall refer to the specific administrative decision being appealed and include the appellant's reasoning in support of the appeal. The zoning administrator shall transmit to the Board of Zoning Appeals the application for the administrative appeal, together with all documentation constituting the record upon which the appealed action was taken.
  - (2) An application for a variance shall describe the details of the variance, including the specific requirement of this code from which a variance is sought. The applicant shall specifically address and answer each of the variance standards, as identified in *Section 1278.04(a)(1)A-F*. The application shall also be accompanied by a plan, which shall include at minimum the following:
    - A. Legal description of the property;
    - B. The boundaries and dimensions of the lot;
    - C. The size and location of existing and proposed structures and off-street parking and loading spaces;
    - D. Existing and proposed use of all parts of the lot and structures;
    - E. Any other information that the Board of Zoning Appeals deems necessary to make a decision on the application.
    - F. The board may require drawings to be based upon a survey that is no more than ten years old, completed by a licensed surveyor.
- (b) A notice stating the time, place and object of the hearing shall be served personally or by mail at least ten days prior to the day of the hearing to the applicant or appellant and to all other persons specified in the Board of Zoning Appeals rules of procedure. The notices, if served by mail, shall be sent to the last known address of the respective property owners as appearing on the Greene County auditor's current tax list. The zoning administrator shall also cause notice of the hearing to be published in a newspaper of general circulation in the Village at least ten days prior to the public hearing. Any party may appear at the hearing in person or by agent or attorney.

## **1278.04 Variances**

The Board's power to grant variances from the dimensional provisions of the zoning code, including by way of example, lot size, width, setbacks, parking requirements and height, shall be in harmony with the intent and purposes of the code, as provided below.

- (a) *Variance Standards.* Variances from the terms of the code shall be granted only where the applicant shows that the strict application of a zoning requirement causes practical difficulties in the use of the property. The factors to be considered and weighed by the Board in determining whether a property owner has encountered practical difficulties in the use of the property include, but are not limited to:
- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
  - (2) Whether the variance is substantial;
  - (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
  - (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection;

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
  - (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
  - (7) Whether the existing conditions from which a variance is being sought were self-created; and
  - (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- (b) The Board shall determine, after weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

### **1278.05 Administrative Appeal**

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- (a) An administrative appeal of an order, requirement, decision or determination by the zoning administrator or body charged with enforcement and administration of this code must be submitted no more than 20 calendar days after the action or decision has been made that is being appealed.
- (b) A submitted application for an administrative appeal stays all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to Village Council, after the notice of appeal is filed, that by reason of facts stated in the application, a stay would cause imminent peril to life and property. In such case, and upon concurrence by the Council, proceedings shall not be stayed other than by a restraining order which may be granted by a court of record.
- (c) In deciding the appeal, the Board shall determine whether or not the decision that was made was done so using the proper requirements and standards in this code. The decision of the Board is limited to the information that was available to the administrative official or body who made the decision being appealed.
- (d) *Decision.* After the Board of Zoning Appeals public hearing and review, the Board of Zoning Appeals may determine to reverse or affirm, wholly or in part, or may modify the administrative decision. When the Board reverses the administrative decision, the Board shall have all powers of the zoning administrator or administrative body from whom the appeal is taken. ▬

### **1278.06 Decisions of the Board**

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- (a) The Board shall decide all applications and appeals within 30 days after the completion of a hearing unless appellant agrees to a longer period. The decision shall be binding upon the zoning administrator. The terms of the Board's decision, including any conditions imposed, shall be incorporated in subsequent permits and official authorizations pertaining to the subject site.
- (b) The concurring vote of three members of the Board shall be necessary to reverse an order, requirement, decision or determination of the zoning administrator or body charged with enforcement and administration of this code, to grant a variance from the requirements of this code, or to decide in favor of the applicant on any other matter. Abstentions or recusals shall count as votes concurring with the majority of those voting if a majority exists.

- (c) ~~Every~~ variance granted by the Board shall expire and be of no force or effect after twelve months from the date of granting by the Board, unless the applicant has made substantial progress toward achieving the approved construction.
- (d) Decisions of the Board of Zoning Appeals may be appealed to the Village Council, according to *Section 1276.03*.

**1280.01 Initiation of Amendments**

Amendments to this zoning code and the official zoning map may be initiated by:

- (a) The Village Council, upon approval of a motion;
- (b) The Planning Commission, upon approval of a motion;
- (c) Any citizen, person, firm or corporation with an interest in property within the Village who submits an application in the proper form, along with required fees, may request a rezoning of property in which case the applicant shall show proof of ownership or other legal interest in the property in question. A citizen, person, firm or corporation may request the Planning Commission or Village Council to initiate a text amendment.

**1280.02 Review Guidelines**

In making a decision on proposed text or map amendments to the zoning code, the following guidelines may be considered by the Planning Commission and Village Council:

- (a) *Text Amendment.* The proposed amendment would:
  - (1) clarify the intent of the code;
  - (2) correct an error in the code;
  - (3) address changes to state legislation, recent case law or opinions from the Attorney General of the State of Ohio;
  - (4) affect the implementation of the Yellow Springs Comprehensive Plan and the Vision: Yellow Springs and Miami Township document;
  - (5) promote compliance with changes in other county, state or federal regulations;
  - (6) in the event the amendment would add a use to a district, that use would be fully consistent with the purpose of the district and the character of the range of uses provided for within the district;
  - (7) not create incompatible land uses within a zoning district;
  - (8) be supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items;
  - (9) if applicable, be consistent with the Village's ability to provide adequate public facilities and services; and
  - (10) be consistent with the Village's desire to promote the public health, safety, convenience, comfort, prosperity and general welfare of the community.
- (b) *Zoning Map Amendment (Rezoning).* The rezoning and the uses permitted in the proposed district:
  - (1) are consistent with the goals, policies and future land use map of the Yellow Springs Comprehensive Development Plan and the Vision: Yellow Springs and Miami Township document; or, if conditions have changed significantly since the plan was adopted, is consistent with recent development trends in the area;
  - (2) are compatible with the site's physical, geological, hydrological and other environmental features;
  - (3) are compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts;



- (4) can be accommodated on the subject property, considering existing or planned infrastructure including roads, sanitary sewers, storm sewer, water, sidewalks, and road lighting; and
- (5) do not result in a spot zone.

### **1280.03 Amendment Process**

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- (a) All petitions for amendments to this zoning code shall be in accordance with Section 1280.01(c), filed with the zoning administrator in writing, signed and accompanied by a fee established by resolution of the Village Council.
- (b) At all times during the process, the text of proposed changes and associated maps and reports from the Planning Commission, shall be open for inspection in the office of the clerk of Council or in some officially designated location
- (c) The zoning administrator shall forward the application to the Planning Commission upon a determination that the application is complete. Incomplete applications shall be returned to the applicant and shall not be processed further until fully completed.
- (d) All petitions for amendments and rezoning, without limiting the right to file additional material, shall contain the following:
  - (1) The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
  - (2) The nature and effect of the proposed amendment.
  - (3) If an individual property or several adjacent properties are proposed for rezoning, a location map, showing the location of the properties generally in the Village , a legal description of the land(s) proposed for rezoning, the present zoning classification(s), the zoning classification of all abutting properties, and all public and private rights-of-way and easements bounding and intersecting the land under consideration.
  - (4) Any changed or changing conditions in the area of the proposed rezoning or in the Village which make the proposed amendment reasonable and necessary to the promotion of the public health, safety, convenience, comfort, prosperity and general welfare.
  - (5) All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
- (e) *Public Hearing and Notice; Planning Commission Action.*
  - (1) The Planning Commission shall make a recommendation upon an application for amendment or rezoning within 30 days after the public hearing is closed.
  - (2) The Planning Commission shall hold a public hearing on any amendment or rezoning, notice of which shall be given in a newspaper of general circulation within the Village at least ten days prior to the hearing. All notices of public hearing shall state the time, date, place and purpose of the public hearing. A notice for a rezoning shall also include a map of the affected area.
  - (3) If the application is for rezoning ten or fewer parcels, the same notice shall be mailed no less than 20 days prior to the date of the hearing, to all property owners abutting and across the street from the subject parcel. Notices shall be sent to the last known address of the respective property owners as appearing on the Greene County auditor's current tax list.

- (4) At least ten days prior to the scheduled public hearing for a rezoning, a temporary sign approximately six square feet in area shall be posted by the Village on the property subject to the rezoning request. The sign shall be removed within three days following the public hearing at which the request was heard. The sign shall contain the following information:
- A. The specific request being made,
  - B. Date of the public hearing,
  - C. Location of the public hearing, and
  - D. Location where additional information may be obtained regarding the request.
- (5) At the public hearing, the Planning Commission shall consider the merits of the case, as well as public testimony, and make a recommendation to approve or deny the amendment in question, following the review guidelines of *Section 1280.02*. The commission shall submit its recommendation to the Village Council no more than 30 days after the public hearing has closed unless the applicant agrees to a longer period..
- (f) *Village Council Action.* Upon receipt of the recommendation of the Planning Commission, the Village Council shall hold a public hearing on the amendment, after publication and notice in accordance with the process outlined in subsection (e), above.
- (g) *Modification.* The Village Council may modify and subsequently adopt the proposed amendment, adopt it as presented by the Planning Commission or deny the amendment. The Council may refer any proposed modifications back to the Planning Commission for additional review and recommendation.
- (h) *Ordinance.* All amendment and rezoning approvals shall be by ordinance.

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**1282.01 Intent**

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- (a) It is recognized that there exist within zoning districts certain uses, buildings, structures and lots that were lawful before this code was passed or amended, but are now prohibited, regulated or restricted under the terms of this code. It is the intent to permit these legal nonconformities to continue until they are removed, but not to encourage their continuance.
- (b) Nonconforming uses, buildings, structures and lots are declared by this zoning code to be incompatible with the provisions of the districts in which they are located. It is the intent of this code that these nonconformities shall not be enlarged, expanded, or extended, except as otherwise permitted in this chapter, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the district.
- (c) Nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this code and upon which actual building construction has been diligently conducted.
- (d) Nothing in this chapter shall be interpreted as authorization for, or approval of, the continuance of the use of a structure or premises in violation of any regulation in effect at the time of the adoption of this code.

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**1282.02 Non-Reversion**

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Any nonconforming use or structure that is changed, in whole or in part, for any reason to a conforming use or structure, or to a use or structure that is closer to conformity than it was prior to the change, shall to that extent thereafter continue to be used or arranged for a conforming use or more conforming use, or shall continue to be a conforming or more conforming structure, and shall not revert to its prior nonconforming status, or to a less conforming use or structure, at any time in the future.

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**1282.03 Nonconforming Uses**

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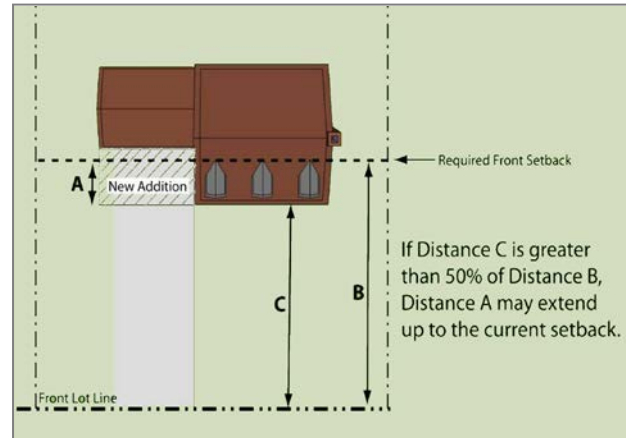
- (a) A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land or building than was occupied at the effective date of adoption or amendment of this zoning code.
- (b) No part of any nonconforming use shall be moved unless that movement eliminates or reduces the nonconformity.
- (c) If a nonconforming use is abandoned for any reason for a period of more than one year, any subsequent use shall conform to the requirements of this code. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
  - (1) Utilities, such as water, gas and electricity to the property, have been disconnected;

- (2) The property, buildings, and grounds, have fallen into disrepair;
  - (3) Signs or other indications of the existence of the nonconforming use have been removed;
  - (4) Equipment or fixtures necessary for the operation of the nonconforming use have been removed;
  - (5) Other actions which, in the opinion of the zoning administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.
- (d) A building or structure containing a nonconforming use, other than a single-family detached dwelling, which is damaged by explosion, fire, flood, wind or other Act of God to the extent of 50 percent or more of its replacement value immediately prior to damage, shall not be reestablished except in conformance with the requirements of this zoning code, unless an exception is granted by the Board of Zoning Appeals in accordance with subsection (e), below. In the event that the zoning administrator's estimate of the extent of damage or replacement value is not acceptable to the property owner or applicant for a zoning permit to repair or reconstruct the building or structure, the applicant may appeal to the Board of Zoning Appeals.
- (e) The Board of Zoning Appeals may permit a building containing a nonconforming use to be enlarged, provided that the board finds that all of the following are true:
- (1) The enlargement is necessary and incidental to the existing use of the building.
  - (2) The enlargement conforms to the height, yard and area requirements of the zoning district in which it is located.
  - (3) The enlargement does not prevent the future use of the structure for a conforming use.
  - (4) The enlargement is not detrimental to present and potential surrounding uses, will be in harmony with the general purpose and intent of this zoning code and will not be injurious to the neighborhood or otherwise detrimental to the health, safety and general welfare of the residents of the village.
- (f) A detached single-family residential dwelling that is nonconforming because it is in a Business, Industrial or other district where it is now disallowed shall be considered conditionally permitted, and it may be enlarged, extended or structurally altered, provided that it meets the requirements for a single family dwelling in the R-C District. If the dwelling is damaged by explosion, fire, flood, wind or other Act of God to the extent of 50 percent or more of its replacement value immediately prior to damage, it may be reconstructed, provided that no nonconformity is increased and no new nonconformity is created.
- (g) Any change to a nonconforming use may only be toward bringing the use into conformance; however, a nonconforming use may be changed to another nonconforming use provided all of the following determinations are made by the Board of Zoning Appeals:
1. The proposed use shall be as compatible, or more compatible, with the surrounding neighborhood than the previous nonconforming use, considering factors such as hours of operation, traffic, noise and similar external impacts.
  2. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land or building area than the previous nonconforming use.
  3. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this zoning code.

### 1282.04 Nonconforming Buildings and Structures

(a) Where a lawful nonconforming building or structure exists at the effective date of this zoning code, or an amendment thereto, that does not comply with the requirements of this code because of restrictions such as floor area, lot coverage, width, height, or setbacks, that building or structure may continue to be occupied and used as long as it remains otherwise lawful, subject to the following provisions:

(1) No nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is nonconforming by 50 percent or less of the distance required by this code. Only in these cases may the nonconforming setback be extended along the same plane as the existing nonconforming setback,



provided that in so doing, the setback itself is not further reduced.

(2) In the event that a nonconforming building or structure is destroyed to an extent of more than 50 percent of its replacement value, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this code; provided that the Board of Zoning Appeals may, upon application, permit the reconstruction of the nonconforming building or structure if all of the following conditions are met:

- The prior nonconforming condition(s) shall not be increased.
- The new building or structure shall be placed on the original foundation, unless the building or structure could be so located as to reduce the extent of its nonconformity on the lot.
- The application to reconstruct the nonconforming building or structure shall be filed with the zoning administrator within six months of the event in which the building or structure was damaged or destroyed.
- The reconstruction of the building or structure shall not be detrimental to adjacent property and the surrounding neighborhood.

(3) If a nonconforming building or structure is moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this code.

(b) None of the provisions of this section are meant to preclude normal repairs and maintenance on any nonconforming building or structure, nor intended to prevent strengthening or correcting any unsafe condition.

### 1282.05 Nonconforming Lots of Record

A lot of record that exists at the time of adoption or amendment of this code that does not meet the minimum requirements for lot width or lot area may be used for any permitted use in the district in which the lot is located, provided that any building or structure constructed on the lot

complies with all other requirements of the zoning district. The nonconforming lot may also be used for conditional uses, if it meets all applicable requirements for those uses.

**1284.01 Interpretation**

Words used in the code shall have their customary meaning, unless specifically defined here.

**1284.02 Definitions: A-B**

**Accessory dwelling unit.** A second dwelling unit subordinate to the principal dwelling that shares ownership and utility connections with the principal unit on a single family zoned lot.

**Accessory structure.** A detached subordinate structure, the use of which is incidental to, customarily associated with, and related to the principal structure or use of the land and which is located on the same lot as the principal structure or use.

**Accessory use.** A use incidental to, and on the same lot as, a principal use.

**Addition.** Any construction which increases the size of a building or facility in terms of site coverage, height, length, width or gross floor area, such as a porch, attached garage or carport, or a new room or wing.

**Affordable dwelling unit.** A dwelling available to low income households earning 80% or less of area median income as defined by the U.S. Department of Housing and Urban Development, for which total housing costs are 30% or less of the household's total monthly gross income.

**Affordable dwelling unit, permanently.** A dwelling unit in which a legal mechanism such as a ground lease, enforceable deed restriction, and/or 501(c)3 nonprofit organization's policy ensures affordability, as defined by HUD, to low income households for some extended time period, usually ending with the durable life of the unit(s).

**Agribusiness.** A business and/or commercial use operated primarily for the support of agricultural needs. It may consist of products, materials, and equipment servicing and sales; storage and/or processing of agricultural products and/or animals (but not including slaughtering, rendering or tanning); veterinarian and/or technical support facilities.

**Agricultural.** The use of land for farming, dairying, pasturage, agriculture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce. Agricultural uses shall not include the commercial feeding of garbage or offal to swine and other animals.

**Alley.** A public right-of-way thirty feet or less in width, but not less than twelve feet, which affords only secondary means of access to abutting property.

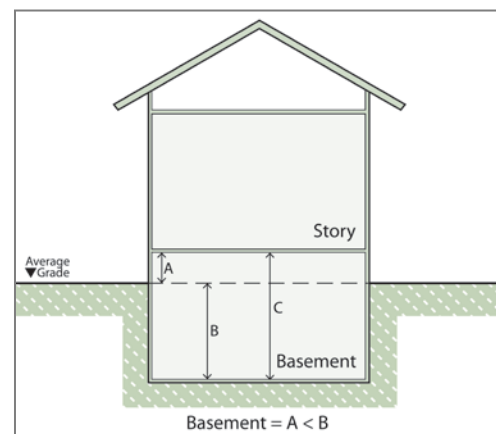
**Alterations, structural.** Any change in the supporting members of a building, such as walls, floors, columns, beams or girders.

**Aquifer.** A geological unit in which porous and permeable conditions exist and are capable of yielding usable amounts of water.

**Aquifer recharge area.** An area that has soils and geological features conducive to allowing significant amounts of surface water to percolate into ground water.

**Awning.** A roof-like structure, generally made of canvas or plastic, mounted above a storefront, window or door and projects from the building wall as an architectural detail and provides shelter from sun and rain.

**Bar.** A lounge, tavern, beer parlor, night club or similar establishment principally operated for the sale of alcoholic beverages to be served on the premises.



**Basement** . A story, all or partly underground, having at least one-half of its height below the average level of the adjoining ground.

**Bed and breakfast inn.** A house, or portion thereof, where short-term lodging rooms and breakfast and light snacks are provided and where the operator lives on the premises or in adjacent premises.

**Board.** The Board of Zoning Appeals for the Village of Yellow Springs.

**Boarding house, rooming house or lodging house.** A building, or part thereof, other than a hotel, motel or restaurant, for three or more unrelated persons, not transients, where no meals are served and no cooking or dining facilities are available in individual rooms.

**Buffer.** A strip of land which provides visual separation and aesthetic relief between potentially incompatible uses through some combination of screen and greenbelt.

**Building.** Any structure attached to the ground, which has a roof and walls or rood supports and is designed or intended for the enclosure, shelter or protection of persons, animals or property. This definition does not include mobile homes.

**Building envelope.** The maximum three dimensional volume on a lot within which a structure can be built, as permitted by applicable height and setback requirements.

**Building, height.** The vertical distance from the proposed average finished grade to the highest point of the roof for flat and shed roofs, the ridge for hip and gable roofs and the deck line for mansard and gambrel roofs.

**Building, principal.** A building in which is conducted the main or principal use of the lot on which said building is located.

**Business districts.** The B-1 and B-2 zoning districts.

### 1284.03 Definitions: C-D

**Canopy.** A rigid, permanent cover over a walkway, attached to a building (see “awning”).

**Carport.** An accessory structure or portion of a principal structure, consisting of a roof and supporting members such as columns or beams, unenclosed from the ground to the roof on at least two sides and designed or used for the storage of motor vehicles.

**Certificate of Occupancy.** A permit authorized and issued by the zoning administrator certifying that the use of the building or land in question is in conformity with this code or that a legal variance has been approved.

**Church (place of worship).** A building or structure or group of buildings or structures that, by design and construction, are primarily intended for conducting organized religious worship services. Associated accessory uses include, but are not limited to, classrooms, meeting halls, indoor and outdoor recreational facilities, day care, counseling and kitchens.

**Clinic.** An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical professionals, psychologists or social workers.

**Cluster housing.** An arrangement that allows detached dwelling units to be grouped in such a way as to trade the open space usually surrounding individual structures for common open space.

**Code.** The Zoning Code of the Village of Yellow Springs, Title Four, Zoning, of Part Twelve, the Planning and Zoning Code of the Yellow Springs, Ohio Code of Ordinances.

**Cohousing.** A type of intentionally developed community composed of private dwellings, supplemented with shared facilities such as common open space, parking, cooking, dining, recreation, gardening, child care, offices and internet access. Decisions are generally made by consensus of the owners within the cohousing community.

**Commercial vehicle.**

- (1) Vehicles, owned by and registered to a business or organization, used to transport commercial goods or materials or used to provide a commercial service;
- (2) Tractor cabs used for hauling semi-trailers;



- (3) All vehicles, including passenger vehicles, affixed with signs advertising or identifying an establishment, product, service or activity;
- (4) Mobile mechanized equipment, such as cranes, bulldozers, trenchers, tractors, compressors and similar equipment.

**Commission.** The Planning Commission of the Village of Yellow Springs.

**Community garden.** One or more plots of land gardened collectively by a group of people.

**Comprehensive Plan.** The document adopted by the Planning Commission and/or Village Council which establishes the goals, objectives and policies related to future land use and the general location and extent of present and proposed community facilities.

**Conditional use.** A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the Village Planning Commission and subject to special requirements which are in addition to those usual requirements for the district in which the conditional use may be located.

**Conservation area.** An environmentally sensitive land protected from activities that would significantly alter its ecological integrity, balance or character.

**Conservation easement.** An easement granting the right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open or wooded condition.

**Continuing care retirement community.** A facility or complex of buildings and structures designed for and occupied by persons 55 years or older and persons with disabilities that provides a range of housing and lifestyle choices, including independent living, assisted living and skilled nursing care in an integrated system.

**Council.** The Village Council of the Village of Yellow Springs.

**Day care, family.** A private home in which one, but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.

**Day care, group.** A private home in which seven, but not more than twelve minor children are given care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.

**Density, gross.** The number of dwelling units meeting the minimum area requirements of the district to be located on a parcel of property, divided by the total acreage of that property.

**Density, net.** The dwelling unit density of a particular area measured by the number of dwelling units meeting the minimum area requirements of the district divided by the total number of acres, excluding public rights-of-way and private easements.

**Dormitory.** A building used as group living quarters for a student body, religious order or other group as an accessory use to a college, university, boarding school, orphanage, convent or other similar use. Kitchen facilities are not provided in each room/unit but there may be a group kitchen facility to serve all residents.

**Drain.** A watercourse, gully, dry stream, creek, ditch or pipe which carries storm water runoff.

**Drive-in or drive-thru facility.** An accessory use for a business (such as a bank, restaurant, dry cleaners or pharmacy) where the delivery of customer services is done, usually from within the building via a service window while patrons are in their motor vehicle.

**Dwelling unit.** A permanent building or portion of a building, having cooking and sanitary facilities, designed or used exclusively for residential occupancy by one family as a single housekeeping unit, but not including hotels/motels, recreational vehicles, tents or portable buildings.

**Dwelling:**

- (1) Dwelling, multiple family. A building designed for occupancy by three or more families living independently of one another.
- (2) Dwelling, single-family. A detached building designed exclusively for and occupied exclusively by one family.
- (3) Dwelling, single family attached. A multiple family building containing at least three dwelling units; in which each unit has its own front and rear access to the outside on the ground floor; and where units share one or more common walls but not a common floor/ceiling
- (4) Dwelling, two-family. A building consisting of two dwelling units or designed for or used by two families or housekeeping units living independently of one another. May also be referred to as a duplex.
- (5) Dwelling, manufactured home. See "manufactured home."

**1284.04 Definitions: E-F-G**

**Easement.** The legal right for a person, government, agency or public utility company to use public or private land owned by another for a specific purpose.

**Essential services.** The erection, construction, alteration or maintenance, by public utilities or municipal or other government agencies, of underground gas, electrical, steam or water transmission or distribution systems, or collection, communication, supply or disposal systems or sites, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants or other similar equipment and accessories in connection therewith which are necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings or personal wireless service facilities.

**Family.** One or more persons living together as a single housekeeping unit, in a dwelling, as distinguished from a group occupying a boarding house, lodging house, short-term rental, dormitory, fraternity, sorority, motel or hotel.

**Farm.** Any parcel of land containing at least three acres which is used for gain in the raising of agricultural products, livestock, poultry or dairy products, including farm structures within the prescribed limits and the storage of farm equipment. Riding stables, dog kennels, establishments for the raising of fur-bearing animals and retail sales buildings offering products not produced on the premises shall not be considered a farm.

**Farm animal.** Any domestic species of cattle, sheep, swine, goats, llamas, or horses, which are normally and have historically, been kept and raised on farms and used or intended for use as food or fiber, or for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. This term also includes animals such as rabbits, mink, and chinchilla, when they are used solely for purposes of meat or fur, and animals such as horses and llamas when used solely as work and pack animals.

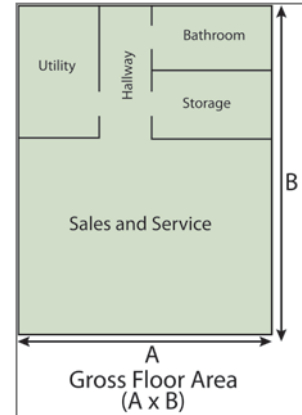
**Farming, sustainable.** A farm operation that employs practices to preserve or enhance water, soil and air quality during production, including no use of synthetic fertilizers, use of only pesticides and herbicides approved by the USDA organic standards and animal access to pasture most of the year.

**Fence.** An enclosure or barrier, typically made of wood, masonry, stone, metal or combination of those materials, the purpose of which is to physically and/or visually contain certain uses or activities, prevent or control entrance, mark a boundary or act as a screen.

**Flood (or flooding).** A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of inland or tidal waters; and/or the unusual and rapid accumulation or runoff of surface waters from any source.

- (1) Federal Emergency Management Agency (FEMA). The agency with overall responsibility for administering the National Flood Insurance Program.

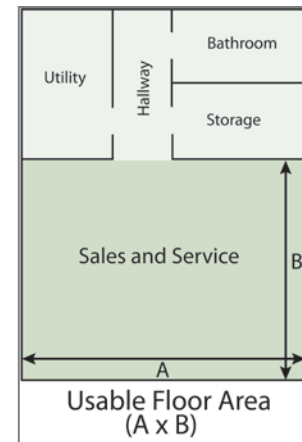
- (2) **Flood, base.** A flood having a one percent chance of being equaled or exceeded in any given year (also be referred to as the 100-year flood).
- (3) **Flood hazard area.** The area possibly threatened by periodic flooding consisting of the floodplain, inclusive of the floodway and the floodway fringe area.
- (4) **Flood hazard boundary map.** The official map issued by FEMA where the areas of special flood hazard have been designated as Zone A.
- (5) **Flood Insurance Rate Map (FIRM).** An official map on which FEMA has delineated the areas of special flood hazard.
- (6) **Floodplain.** The area adjoining a river, stream, watercourse or lake subject to 100-year occurrence interval flood, as delineated by FEMA. The floodplain includes the stream tributaries, the floodway and the floodway fringe.
- (7) **Floodway.** The channel of a river, stream or toher watercourse and the land areas of the floodplain adjoining the channel that are reasonably required to efficiently carry and discharge the flood water or flood flow of a river or stream and must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- (8) **Floodway fringe.** The portions of the floodplain lying outside the floodway.



**Floor area, gross.** The sum of the horizontal area of the several floors of a building, measured from the interior faces of the exterior walls.

**Floor area, residential.** For purposes of computing compliance with the minimum floor area requirements of a dwelling in a residential district, floor area shall include the total area of all floors whose height is more than half above finished grade, having a minimum floor to ceiling height of seven and a half feet, located on a permanent foundation, wired for electrical service and heated for year-round use.

**Floor area, usable.** That area to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers, measured from the interior faces of the exterior walls. Areas used principally for the storage or processing of merchandise, for hallways, stairways and elevator shafts or for utilities or sanitary facilities shall be excluded from this computation.



**Garage, private.** A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, recreational vehicles and/or incidental personal property of the occupants of the premises.

**Garage, public.** A principal or accessory building, other than a private garage, used for parking or temporary storage of passenger automobiles, recreational vehicles and/or incidental personal property, and in which service is provided for remuneration or barter.

**Grade, average.** The mean or midway point between the highest and lowest elevation of the ground abutting the existing or proposed location of each face of a building, wall or other area being measured. The measurement of average grade may include the following:

- (1) **Grade, finished.** The final grade of a site after grading, filling or excavating.
- (2) **Grade, natural.** The grade of a site that exists or existed prior to manmade alterations, such as grading, filling or excavating.

**Green burial.** This refers to the interment of the body of a dead person in the soil in a manner that does not inhibit decomposition but allows the body to recycle naturally without the use of embalming fluid or formaldehyde . It is also referred to as natural burial.

**Greenbelt.** A preserved linear landscaped area along one or more property lines, providing a defined edge and/or screening.

**Group home, adult.** A residential care facility licensed or authorized by the State of Ohio, or under contract to the State or a political subdivision thereof, which provides room and board, personal care and supervision for not more than eight elderly or mentally or physically handicapped persons over seventeen years of age.

**Group home, juvenile.** A residential care facility licensed or authorized by the State of Ohio, or under contract to the State or a political subdivision thereof, which provides room and board, personal care and supervision for not more than eight mentally or physically handicapped or delinquent juvenile persons under eighteen years of age.

## 1284.05 Definitions: H-I-J-K

**Hazardous substances.** Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental to the health of any person handling or coming in contact with the material that is regulated by a governmental agency.

**Historic structure.** Any structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by:
  - A. an approved state program, as determined by the Secretary of the Interior; or
  - B. directly by the Secretary of the Interior in states without approved programs.

**Home occupation.** An occupation or profession conducted, as an accessory use in a dwelling or a detached accessory building on the same lot as a principal dwelling, by a member or members of the resident family and which is clearly accessory and incidental to the residential use of the lot. Also referred to as a "home-based business."

**Hotel/motel.** A building under single management that provides rooms or suites intended primarily as sleeping accommodations for public rental on a daily basis for registered guests. A hotel (as distinct from a motel) contains a central interior lobby and provides daily room cleaning and linen changes. Other supportive facilities may also be included such as, but not limited to, meeting rooms, incidental retail sales, restaurants, lounges, swimming pools, recreational and fitness facilities and similar facilities/services intended principally to serve registered guests.

**Impervious surface.** Any material that substantially reduces or prevents the infiltration of storm water into previously undeveloped land.

**Junk.** Any motor vehicles, machinery, appliances, products or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their use for the purpose for which they were manufactured..

**Junk yard.** An establishment or place of business which is maintained or operated for the purpose of storing, keeping, buying or selling scrap or salvageable materials, including dismantled vehicles, or for the maintenance or operation of an automobile graveyard.

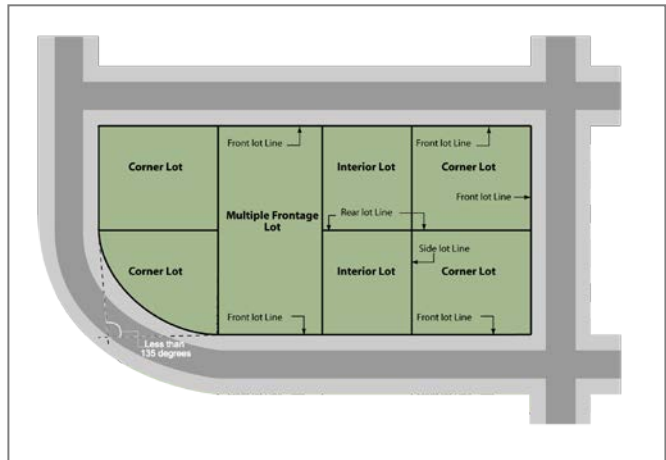
**Kenel.** Any premises used to board, breed, sell, train or treat more than three dogs, cats or other domestic pets who are more than six months old.

**1284.06 Definitions: L-M-N**

**Loading space.** An off-street portion of a parcel or lot designated for the temporary parking of commercial vehicles while loading or unloading materials used, sold or made on the premises.

**Lot.** A legally described and recorded parcel of land occupied or intended to be occupied by a principal building or group of buildings and accessory buildings, or utilized for a principal use and its accessory uses, together with such yards and open spaces as are required by this code.

- (1) **Lot, corner.** A lot having contiguous frontage on two intersecting streets if the interior angle at the intersection of the streets is less than 135 degrees. Also, a lot located on a curved street or streets, if tangents of the curve, at the point of beginning with the lot or the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees.



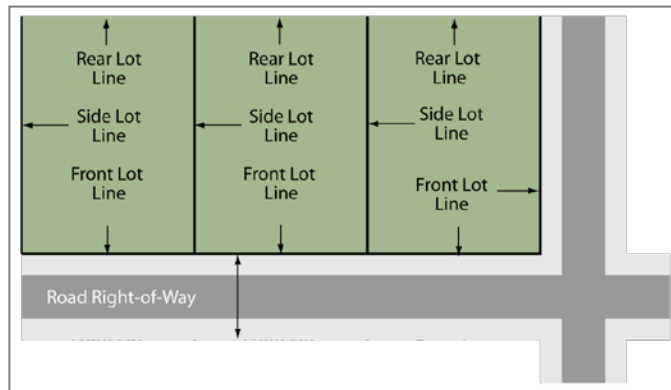
- (2) **Lot, interior.** A lot other than a corner or through lot.
- (3) **Lot, through.** A lot having frontage on two approximately parallel streets or a water body and a street.

**Lot area.** The total horizontal area within the lot lines of the lot, excluding any street right-of-way or easement dedicated for street purposes.

**Lot coverage.** The part of the lot occupied by buildings or structures, expressed as a percentage, including accessory buildings or structures, but not including parking lots.

**Lot lines.** The lines bounding a lot, as defined below:

- (1) **Lot line, front.** In the case of an interior lot, the line separating the lot from the street right-of-way or road easement. Through and corner lots shall have two front lot lines.
- (2) **Lot line, rear.** The lot line opposite and most distant from the front lot line. On a corner lot, the rear lot line is opposite the shorter of the two front lot lines. In the case of a triangular lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying furthest from the front lot line and wholly within the lot. A through lot has no rear lot line.
- (3) **Lot line, side.** The lot lines connecting the front and rear lot lines of an interior or corner lot or connecting the front lot lines of a through lot.



**Lot of record.** A lot that is separately described within an approved subdivision or a parcel of land surveyed and legally recorded with the Village and county.

**Lot width.** The horizontal straight line distance between the side lot lines, measured at the two points where the front setback line intersects the side lot lines. On a corner lot this line shall be between the designated side and opposite front lot line of the lot;

**Lowest floor.** The lowest floor of the lowest enclosed area (including the basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is built in accordance with the applicable requirements specified within the flood plain overlay district (*Chapter 1256* in this code).

**Manufactured home.** A factory-built, single family structure, transportable in one or more sections, which is built on a permanent chassis in compliance with the National Manufactured Home Construction and Safety Standards (42 USC, sec. 4301) and designed to be used as a single family dwelling, with or without a permanent foundation, when connected to utilities. The term "manufactured home" includes "mobile home." Recreational vehicles and temporary buildings are not included in this definition.

**Mini-warehouse or self-storage facility.** A building or group of buildings in a controlled access and/or fenced compound that contains varying sizes of individualized, compartmentalized and controlled access rooms, stalls or lockers for the storage of customer's goods or wares.

**Mixed use.** Two or more principal uses within the same building through superimposition or adjacency, or in multiple buildings by adjacency or at a close proximity.

**Nonconforming building or structure.** Any building or structure that was legally established and in existence at the time this code, or any amendment, was adopted and which does not conform to the current regulations of the district in which it is now located.

**Nonconforming lot.** Any lot of record that was legally established and in existence at the time this code, or any amendment, was adopted and which does not conform to the current regulations of the district in which it is now located..

**Nonconforming use.** Any use of land, building or structure that was legally established and operating at the time this code, or any amendment, was adopted and which is not permitted in the district in which it is now located.

**Nursing home.** A facility licensed as a rest home, nursing home, convalescent home, home for the aged, or similar use established and operated on a profit or non-profit basis to provide lodging and/or meals and/or domiciliary care for the aged, infirm, chronically ill, terminally ill, mentally incapacitated or convalescent persons, but not including hospitals, clinics or similar institutions devoted primarily to diagnosis and treatment. The term does not include facilities devoted to independent living units which include kitchen facilities in which residents have the option of preparing and serving some or all of their own meals or boarding facilities which do not provide personal care.

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## 1284.07 Definitions: O-P-Q

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**Open space.** An area of land unoccupied by buildings, structures, storage or parking areas, except for recreational structures and which is generally for the purpose of active or passive recreation, environmental protection, preservation of scenic views or similar purposes. Open space does not include street rights-of-way or easements, or required yards.

**Outdoor storage.** Storing equipment, supplies, material, goods, products, inventory or other such items on property in a commercial or industrial district. This shall not apply to storage or keeping of yard equipment, firewood, play equipment or other items normally incidental to a residential use on the same property.

**Overlay zone.** A special purpose zoning district that encompasses all or a portion of one or more underlying zones and imposes additional requirements beyond those of the underlying zone(s).

**Parking lot.** An area not within a building where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking.

**Parking space, off-street.** An area of required size, exclusive of necessary driveways, aisles or maneuvering areas suitable to accommodate one motor vehicle and having direct unobstructed access to a street or alley, but located totally outside of any street or alley right-of-way.

**Permitted use.** A use by right which is specifically authorized in a particular zoning district.

**Person.** A firm, association, organization, partnership, trust, company or corporation, as well as an individual.

**Personal services.** An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, barber and beauty shops, watch repair, tailors and shoe repair shops.

**Planned unit development.** A lot or parcel of land, developed as a unit under single ownership or unified control, that is unique and incorporates one or more of the following: a variety of uses, varied density of development, dedicated open space, preservation of significant natural features, reduced lot sizes or similar attributes.

**Planning commission.** The Planning Commission of the Village of Yellow Springs.

**Principal use.** The main or primary use of land or structures, as distinguished from a secondary or accessory use.

**Public utility.** Any person, firm, corporation, municipality, board or commission duly authorized to furnish, under federal, state or municipal regulations, to the public electricity, gas, steam, communications (excluding wireless communications), telephone, transportation, sewer or water services; provided that this definition shall not include any person, firm or corporation engaged in radio or television broadcasting.

## 1284.08 Definitions: R-S

**Recreational vehicle.** Vehicles or equipment used primarily for recreational or leisure purposes including, but not limited to, motor homes, camper trailers, travel trailers, pop-up campers, boats, snowmobiles, motorcycles, dune buggies and similar vehicles and the trailers used to transport them.

**Recycling center.** A facility or location in which used material is separated and processed prior to shipment to others who will use the materials to manufacture new products.

**Residential districts.** The R-A, R-B and R-C Districts.

**Restaurant.** An establishment principally operated for the sale of food and beverages to be served for consumption on the premises, which may also include carry-out service or delivery of food through a drive-in and drive-thru facility for consumption off the premises..

**Right-of-way.** A strip of land dedicated for public use and occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or other essential services.

**Screening.** The method by which a view of one site from another adjacent site is shielded, concealed or hidden. Techniques include fences, hedges, walls, berms or other such features.

**Screen.** A visual barrier that surrounds a potentially offensive or incompatible activity.

**Setback.** The required minimum horizontal distance between the line at which the building may be built and the related front, rear and side property lines.

**Sexually oriented business.** Those businesses defined, as follows:

- (1) **Adult arcade.** An establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, or other visual representations, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions which

- are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (2) Adult bookstore, adult novelty store or adult video store.
- A. A commercial establishment which has as a significant or substantial (i.e., 50% or more) portion of its stock-in-trade or derives a significant or substantial (i.e., 50% or more) portion of revenues or devotes a significant or substantial (i.e., 50% or more) portion of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:
1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, digital video discs, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
  2. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others;
- B. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as the definition above is met.
- (3) Adult cabaret. A nightclub, bar, restaurant, private club, bottle club, juice bar or similar commercial establishment, whether or not alcoholic beverages are served, which features: (a) persons who appear nude or semi-nude or in a state of nudity or semi-nudity; (b) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or (c) films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. "Private club" shall mean an establishment where patrons may bring in their own bottle or other container of alcohol (including beer, wine or liquor) and purchase a mixture for the same or use of a glass from the club or business.
- (4) Adult motel. A motel, hotel or similar commercial establishment which offers public accommodation, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, digital video discs, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television.
- (5) Adult motion picture theater. A commercial establishment where films, motion pictures, video cassettes, digital video discs, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are shown for any form of consideration.
- (6) Adult theater. A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration features persons who appear



- in a state of nudity or semi-nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities which is not customarily open to the general public during such features because it excludes minors by reason of age.
- (7) Escort agency. A person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person or to privately appear in the state of nudity or semi-nudity for another person.
- (8) Massage parlor. Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with specified sexual activities is offered, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder, nor by any other individual licensed by the State of Ohio to perform massages.
- (9) Semi-nude model studio. Any place where a person regularly appears in a state of nudity or semi-nudity or displays specified anatomical areas for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons. This definition does not include an accredited state licensed public or private educational institution or bona-fide art organization offering instruction, which may involve the exposure of the human body for purposes of drawing, filming or photographing as part of a course.
- (10) Sexual encounter establishment. A business or commercial establishment that as one of its principal business purposes offers for any form of consideration:
- A. A place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas; or
  - B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Ohio engages in medically approved and recognized sexual therapy.
- (11) Simulated. To assume the mere appearance of something, without the reality, to imitate or pretend.
- (12) Specified anatomical areas. Includes any of the following:
- A. Less than completely and opaquely covered human genitals, pubic region, anus or any portion of the female breast below the top of the areola or nipple; or
  - B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- (13) Specified sexual activities. Includes any of the following:
- A. The fondling or other intentional touching of human genitals, pubic region, anus, or female breast;
  - B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
  - C. Masturbation, actual or simulated;
  - D. Human genitals in a state of sexual stimulation, arousal or tumescence; or
  - E. Excretory functions as part of or in connection with any specified sexual activities defined in this section.

**Short-term Rental Unit.** A dwelling unit that is rented or leased to one person, family or entity on a weekly or monthly basis, but typically less than one year.

**Sign.** A device, structure, fixture or placard which may or may not use graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service or activity.

- (1) Sign, balloon. A non-porous bag of material, with or without lettering on its surface, filled with air or gas and intended to draw attention to a business or other use on the premises on which it is located.
- (2) Sign, billboard. A sign which advertises an establishment, product, service or activity not available on the lot on which the sign is located.
- (3) Sign, business center. A sign advertising a shopping or business center, strip center, mall or any multi-tenant commercial, industrial or office use.
- (4) Sign, canopy. Any sign that is affixed to or printed on a canopy or awning.
- (5) Sign, changeable message. A sign designed to permit immediate change of copy, either manually or electronically.
- (6) Sign, community special event. A temporary sign calling attention to special events of interest to the general public which are sponsored by governmental agencies, schools or other non-profit charitable, philanthropic, religious or benevolent organizations.
- (7) Sign, construction. A sign which identifies the owners, lenders, contractors, architects and engineers of a project under construction.
- (8) Sign, directional. A sign used to direct motor vehicle, bicycle and/or pedestrian traffic entering or leaving business establishments or shopping centers.
- (9) Sign, freestanding. Any sign not attached to a building or wall which is supported by one or more poles or braces or which rests on the ground or on a foundation resting on the ground.
- (10) Sign, gateway. A sign placed at the street entrance to a single family subdivision, multiple family development, planned unit development, industrial park or similar consolidated development, containing only the name of the subdivision or development.
- (11) Sign, ground. A freestanding sign supported by a base which rests directly on the ground. The width of the base shall be at least 50 percent of the width of the sign to be considered a ground sign.
- (12) Sign, marquee. A sign that is part of or attached to a permanent roof-like structure or canopy of rigid materials supported by and extending from the building front.
- (13) Sign, pole. A freestanding sign that is elevated above the ground on poles or braces and not attached to any building or other structure.
- (14) Sign, political. Any sign dealing with candidates or issues appearing on a ballot in an election sanctioned by the Board of Elections.
- (15) Sign, projecting. Any sign attached to a building or other structure and extending in whole or in part more than twelve inches from such structure.
- (16) Sign, public service. Any sign whose purpose is solely to serve the public and which does not advertise a business.

- (17) Sign, real estate. A sign advertising the real estate upon which the sign is located as being for sale, rent or lease.
- (18) Sign, roof. Any sign erected upon a building or structure which extends above the roof line of the building or structure.
- (19) Sign, temporary. A sign that is not permanent or affixed to a building or structure and, by its nature, may be or is intended to be moved from one location to another, such as "A" frame signs or signs on a movable trailer, whether rented or owned.
- (20) Sign, wall. A sign painted, attached to or erected in a plane parallel to a wall, extending no more than 12 inches from the exterior face of the wall to which it is attached.
- (21) Sign, window. A sign affixed to the glass on the outside or inside of a window, or erected within three feet of a window on the inside of a building so as to be seen from the outside of the building.

**Site plan.** A drawing, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific land parcel.

**Skilled nursing care.** Procedures that require technical skills and knowledge beyond those of an untrained individual and commonly employed in providing for the physical, mental and emotional needs of the ill or otherwise incapacitated.

**Spot Zone.** Singling out of a lot or small area for discriminatory or different treatment from that accorded surrounding land which is similar in character.

**Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, and also any portion of a building used for human occupancy between the topmost floor and the roof.

**Street.** A public right-of-way fifty feet or more in width which provides a public means of primary access to abutting property, or any such right-of-way more than thirty and less than fifty feet in width, provided that it existed prior to November 18, 1971. The term "street" includes avenue, drive, lane, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

**Street Classification.** A hierarchy of street types denoting their relative function and traffic-carrying capability.

- (1) Arterial. A connected network of continuous routes serving intra- and interstate travel, as well as interurban travel. Arterials accommodate high traffic volumes generally at higher speeds. Access to abutting land is subordinate to moving through traffic. The following streets are classified as arterials:
  - A. Dayton-Yellow Springs Road /Dayton Street
  - B. Fairfield Pike
  - C. Xenia Avenue
- (2) Collector. Those streets which collect traffic from local streets and channel it to arterial streets. Collector streets carry moderate traffic volumes and primarily provide for local traffic movements with a minor amount of through traffic. While traffic movement is an important function, collectors also provide for a higher degree of land access than arterials. The following streets are classified as collectors:
  - A. Allen
  - B. Corry
  - C. Enon
  - D. High
  - E. King
  - F. Limestone

- G. Livermore
- H. South College
- I. Spillan
- J. Walnut

- (3) Local. A street that provides direct access to adjacent land and access to higher street classifications. All streets not otherwise classified are local.

**Structure.** Anything constructed, erected or placed which requires location on the ground or attachment to something having location on the ground including, but not limited to: buildings, accessory buildings, sheds, patios, gazebos, tennis courts, swimming pools, radio and television towers, decks and platforms; provided, however, that patios shall not be deemed structures if no part is above the ground and if it is located outside the minimum front, side and rear yard setback area. Lawful fences or walls, utility poles, basketball goals, mailboxes, sidewalks, driveways, streets, parking areas or retaining walls shall not be considered as structures for purposes of this code.

**Subdivision.** Shall mean:

- (1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall not be considered a subdivision for purposes of this code; or
- (2) The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets except private streets serving industrial structures, and the division or allocation of land as open spaces for common use by owners, occupants or lease holders, or as easements for the extension and maintenance of public sanitary sewers, water lines, storm drainage or other public features.

### 1284.09 Definitions: T-U

**Temporary structure.** A structure erected for a period of time not to exceed eighteen months for such use as construction offices or storage buildings at a construction site.

**Use.** The specific purposes for which land or a building is designed, arranged or intended, or for which it is or may be occupied or maintained.

### 1284.10 Definitions: V-W

**Variance.** A relaxation or modification of the requirements of this code permitted by the Board of Zoning Appeals on individual parcels of property as a method of alleviating practical difficulty in meeting the minimum requirements of the code.

**Vehicle repair, major.** The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting and steam cleaning.

**Vehicle repair, minor.** A building or premises used primarily to provide general maintenance on automobiles such as oil changes and lubrication; servicing an repair of spark plugs, batteries, pumps, belts, hoses, air filters, windshield wipers and distributors; replacement of mufflers and exhaust systems, brakes and shock absorbers; radiator cleaning and flushing; sale and installation of automobile accessories such as tires, radios and air conditioners; wheel

alignment and balancing; but, excluding tire recapping or grooving or any major mechanical repairs, collision work or painting.

**Vehicle service station.** Any land and building used for the supply of gasoline, oil or other fuel for motor vehicle propulsion and may also include minor vehicle repair.

**Vehicle wash.** A building or portion of a building with machine or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.

**Veterinary hospital or clinic.** A building where care and treatment of small animals, including household pets, is provided.

**Wholesale establishment.** A business that engages in the sale of goods, merchandise and commodities for resale by the purchaser.

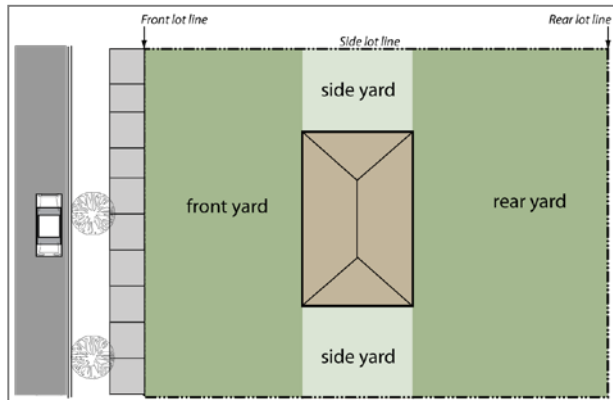
**Wireless communication facility.** The plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, antennas, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer wireless communications services.

**Wireless communication tower.** Any structure, such as a mast, pole, monopole, guyed tower or lattice tower that is designed and constructed primarily for the purpose of supporting one or more antennas.

## 1284.11 1284.11 Definitions: X-Y-Z

**Yard.** An unoccupied open space from the ground upward, between the building wall and the adjoining lot lines.

- (1) **Front yard.** The space extending the full width of the lot between the nearest edge of a building and the front lot line.
- (2) **Rear yard.** The space extending the full width of the lot between the nearest edge of a building and the rear lot line.
- (3) **Side yard.** An open space extending from the front yard to the rear yard between the nearest edge of a building and the nearest side lot line.



**Yard, required.** That portion of the yard lying between the lot line and the required building setback line.

**Zero lot line.** A development method in which a building is sited along one lot line with no side yard on that side to allow more flexibility in the site design and to increase the amount of usable open space on the lot.

**Zoning Administrator.** The Village Manager or the Manager's designee in the capacity as enforcer of the provisions of this Zoning Code.

**Zoning district.** A section of the Village in which requirements for the use and dimensions of the land and buildings are prescribed.

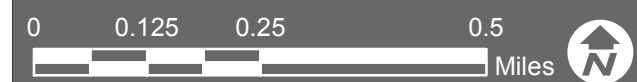
**Zoning permit.** A written authorization issued by the Zoning Administrator verifying that proposed buildings, structures or uses are consistent with the terms of this zoning code for the district in which the building, structure or use will be located.

# Zoning Map

Zoning Code  
Village of Yellow Springs  
Greene County, OH

- C Conservation
- R-A Low Density Residential
- R-B Moderate Density Residential
- R-C High Density Residential
- E-1 Educational Institution
- B-1 Central Business
- B-2 General Business
- I-1 Business Park
- I-2 Industrial
- PUD Planned Unit Development
- Floodplain Overlay District
- Gateway Overlay District

Adopted - 9/16/2013



Sources: State of Ohio, Village of Yellow Springs

