

Suggested Revisions to the Yellow Springs Zoning Code

November 2, 2006

To: Yellow Springs Planning Commission

From: Phil Hawkey, Village Planner

Recent permit applications have brought issues forward for text amendment consideration. First among those are the regulations for the Central Business District (CBD) that are in conflict with each other, making compliance extremely difficult and often impossible when applied to the property as it exists in reality.

The following suggested changes are intended to offer significant relief without sacrificing the intent of the Comprehensive Plan or the Purpose of Chapter 1256. Additional related changes are proposed outside of Chapter 1256. Please refer to the July 10, 2006 Agenda Item memo on this topic for additional background.

Surrounding text is included in this draft to provide context. Text to be added is underlined. Text to be removed is ~~struck through~~.

CHAPTER 1256 Central Business District

1256.01 PURPOSE.

The Central Business District shall serve as the focal point for the social and commercial activities of the Village. A variety of business, institutional, public, quasi-public, cultural, residential and other related uses is encouraged to support both local and regional commercial and cultural activities. An appropriate mix of activities to retain a vital environment is encouraged. Activities occurring in this District are, for the most part, pedestrian oriented, and, therefore, the safety, mobility and well-being of persons using this area shall be protected and supported by these regulations.

The importance of a healthy, well-developed and economically viable business and social center is recognized and upheld by these regulations.

The location of this District, adjacent to the main thoroughfares of the Village, is recognized in its importance in expressing the nature and character of the Village. The scale of business and commercial activities should be proportional to the Village population and a small multiple thereof on special occasions.

1256.02 PRINCIPALLY PERMITTED USES.

The following uses shall be permitted in a Central Business District:

- (a) Retail stores/shops;
- (b) Professional offices;
- (c) Service-related establishments;
- (d) Banks and similar financial institutions, excluding drive-thru facilities;
- (e) Indoor theaters and other similar commercial entertainment establishments;
- (f) Food and/or beverage service facilities, excluding drive-in or drive-thru facilities;
- (g) Nonprofit, professional, charitable, service and labor organizations;
- (h) Other uses which, in the ruling of the Zoning Administrator, are similar to the uses listed above.

1256.03 CONDITIONALLY PERMITTED USES.

The following uses shall be conditionally permitted in the Central Business District, subject to the provisions of Chapter 1272:

- (a) Large Buildings and Lots as defined in 1256.04
- (b) Churches;
- (c) Light manufacturing/assembly and wholesale activities when associated with the sale of items produced. When the retail component is absent, these uses shall be conditionally permitted only when they are located on an upper or basement floor.
- (d) Drive-in/drive-thru/carry-out establishments, including restaurants, banks and other financial institutions;
- (e) Bed and breakfast establishments;
- (f) Civic buildings/community centers;
- (g) Funeral parlors;
- (h) Dwelling units either above the street level building spaces or as a subordinate use in floor area to a principally permitted use on the street level.
 - (1)

1256.04 LARGE BUILDINGS AND LOTS.

Conditional Use approval per Chapter 1272 is required for any new construction, of a building exceeding 35 feet in height or with a ground floor area of 5,000 square feet or greater, and the development or redevelopment of any lot with an area of 8,000 square feet or more.

1256.05 ACCESSORY STRUCTURES.

Customary accessory structures are permitted, provided that:

- (a) No structure shall exceed 500 square feet in size.
- (b) No structure shall exceed twenty feet (one and one-half stories) in height.
- (c) No signage or advertising shall be posted on any accessory structure.
- (d) The structure shall be located behind the principal structure on the lot and may be erected in the required rear yard if such structure occupies no more than thirty percent of the required rear yard.
- (e) No form of external lighting shall be used to illuminate an accessory structure, except for public safety purposes.

1256.06 AREA, YARD AND HEIGHT REQUIREMENTS.

- (a) Lot Area. There is no minimum lot area requirement in the Central Business District.
- (b) Setbacks.
 - (1) Front. The front yard depth shall be not less than one foot.
 - (2) Rear. The rear yard setback shall be not less than fifteen feet when abutting a Residence District and five feet in all other instances.
 - (3) Side. The side yard setback shall be not less than fifteen feet when abutting a Residence District.
- (c) Height. No structure shall exceed thirty-five feet in height without Conditional Use approval.
- (d) Lot Width. There is no minimum lot width requirement in the Central Business District.
- (e) Lot Coverage. No building and associated impervious surface shall cover more than ninety percent of any lot.

1256.07 LANDSCAPING AND SCREENING.

Whenever a lot in the Central Business District is located adjacent to a Residence District, said lot shall be effectively screened on all sides which adjoin or face any property located in a Residence District by an acceptably designed wall, fence or planting screen. Such fence or wall shall be not less than four feet nor more than six feet in height and shall be maintained in good condition. A planting screen shall be not less than four feet in height and width, and shall be densely planted and well maintained in good condition. Any space between such fence, wall or planting screen and the lot line of the adjoining premises in any Residence District shall be landscaped with grass, hardy shrubs or evergreen ground cover, and maintained in good condition.

Open storage areas, exposed machinery and outdoor areas used for the storage and collection of trash must be visually screened from public rights of way and surrounding uses. Suitable types of screening include wood, brick or acceptable masonry fences with a maximum height of six feet or dense evergreen hedges with a minimum height of five feet.

1256.08 OFF-STREET PARKING AND LOADING.

Principally and conditionally permitted uses, including drive-in commercial uses, shall abide by the off-street parking and loading requirements specified in Chapter 1268, except for the number of parking spaces required, which shall be as follows.

- a) Interior lots with less than 80 feet of frontage are exempt from the parking requirements unless they have access from an alley.
- b) Interior lots with less than 80 feet of frontage that have access from an alley shall provide a minimum of 1 off-street parking space for each 15 feet of alley frontage.
- c) Corner lots and through lots with less than 60 feet of primary street frontage shall provide a minimum of 1 off-street parking space for each 15 feet of primary street frontage.
- d) Lots larger than those listed above shall provide 1 off-street parking space for each 300 square feet of floor area on the ground floor.

1256.09 SIGNS.

Signs shall be permitted in accordance with the specifications set forth in Chapter 1276. (Ord. 93-5. Passed 5-3-93.)

To avoid confusion the specification for drive-in commercial uses are moving from Chapter 1272 Conditional Uses to Chapter 1268 Off-Street Parking. Text should also be added in Chapter 1258 General Business District, where such uses are permitted:

CHAPTER 1258 General Business District

1258.05 OFF-STREET PARKING AND LOADING.

Principally permitted uses, including drive-in commercial uses, and conditionally permitted uses in a General Business District shall abide by off-street parking and loading requirements specified in Chapter 1268.

Another issue concerns the prohibition on retail uses in the Light Industrial District.

A bicycle shop was denied permission to locate at 108 Cliff Street (former lumber yard). The BZA determined that it lacked the power to grant relief. The following change in Chapter 1260 Light Industrial District would not allow the bicycle shop as envisioned, but would allow a limited retail sales of goods produced on site:

CHAPTER 1260 Light Industrial District

1260.01 PURPOSE.

The Light Industrial District has been planned to encourage the development of manufacturing, wholesale and large professional establishments which are clean, quiet and free of hazardous or objectionable elements. The creation or promotion of retail activities in this District is not encouraged.

1260.02 PRINCIPALLY PERMITTED USES.

The following uses shall be permitted in a Light Industrial District:

- (a) Light manufacturing and assembly plants, machine shops, food or pharmaceutical processing and other operations for making, repairing, finishing, converting or storing of items, provided that all resulting cinders, dust, flashing light, fumes, gases, odors, refuse matter, smoke or vapor are effectively confined to the premises and that no noise or vibration is perceptible outside such premises;
- (b) Professional buildings, research buildings, laboratories, medical centers or clinics, advertising agencies, commercial art and design studios, insurance companies, manufacturer's representatives, administrative offices and headquarters for firms and institutions whose principal activities may be located outside this District;
- (c) Similar uses which the Planning Commission may consider appropriate to the purposes of this District.

1260.03 CONDITIONALLY PERMITTED USES.

The following uses shall be conditionally permitted in a Light Industrial District, subject to the provisions of Chapter 1272:

- (a) Lumber yards having a minimum lot size of one acre and having less than twenty percent of their gross floor area devoted to serving retail customers;
- (b) Wholesale business establishments not prohibited by Section 1260.04(b) or (d).
- (c) Accessory retail sales of goods produced on site. No more than 10% of the ground floor area shall be used for retail sales.
- (d) Personal wireless service facilities, when the applicant has been denied access to properly zoned Village-owned land for said purpose.
- (e) All uses not otherwise prohibited by law.

1260.04 PROHIBITED USES.

In addition to those uses not permitted in any Village zoning district, the following uses are prohibited in a Light Industrial District:

- (a) All uses of land, buildings and structures or industrial processes that may be noxious or injurious by reason of dust, smoke, refuse matter, odor, gas, fumes, noise, vibrations or similar substances or conditions, provided, however, that any uses may be permitted if they are approved by the Planning Commission, subject to securing a permit and to such conditions, restrictions and safeguards as may be

- deemed necessary by the Commission for the purpose of protecting the health, safety or general welfare of the community;
- (b) Retail stores, banks or other activities tending to create direct consumer traffic, such as barber or beauty shops, gift shops, grocery, hardware, clothing or drug stores, laundry service, dry cleaning, automobile service stations, garages or sales rooms, theaters, bowling alleys, amusement parks or other equivalent recreational uses;
 - (c) Dwelling units, hotels, motels, nursing homes or child care establishments;
 - (d) Truck or commercial transportation terminals;
 - (e) Funeral or undertaking establishments;
 - (f) Private schools or playgrounds.

The following changes in Chapter 1268 Off-Street Parking and Loading are recommended:

CHAPTER 1268 Off-Street Parking and Loading

1268.01 PARKING LOT DEFINED; APPLICATION OF CHAPTER.

For the purposes of this chapter, "parking lot" means any area used for the display or parking of any vehicle, boat or heavy construction equipment, whether or not they are for sale or lease. All requirements of this chapter apply to all parking lots in any zoning district other than the Central Business District, including parking lots and display areas for automobile dealerships and service stations. The number of parking spaces required in the Central Business District shall be as specified in Section 1256.08. All other requirements of this chapter shall apply to properties in the Central Business District. The area of the parking lot shall be calculated to include all paved parking and the areas used for ingress and egress.

1268.02 GENERAL REQUIREMENTS.

- (a) All new buildings and structures and all new land uses shall provide necessary off-street parking or loading facilities as required hereinafter, and all applications for a zoning permit shall include a plot plan, drawn to scale and fully dimensioned, showing off-street parking or loading spaces to be provided in compliance with this chapter.
- (b) Whenever a building addition or new land use results in an increase in the number of units used to measure required off-street parking spaces, and such addition creates a need for an increase of more than ten percent in the number of required off-street parking spaces for the additional use, additional off-street parking shall be provided on the basis of the increase in the number of such units of measurement, except that in the case of additional dwelling units, two off-street parking spaces shall be required for each dwelling unit proposed.

(c) Off-street parking and loading spaces in existence on the effective date of this chapter shall not be reduced in number unless they already exceed the requirements of this chapter for equivalent new construction, in which event the spaces shall not be reduced below the number required herein for such equivalent new construction.

(d) Computations of required parking spaces which result in fractional spaces shall be interpreted such that any fraction equal to or less than one-half is disregarded, and any fraction greater than one-half becomes an additional space.

(e) Parking spaces and lots shall be designed with appropriate means of vehicular access to a street or alley in such a manner as will least interfere with the movement of traffic. Any driveway or curb cut in any district shall be in accordance with appropriate ordinances of the Village. Where an off-street parking lot does not abut on a public or private alley or easement of access, there shall be provided, in such manner as to secure the most appropriate development of the property in question, an access drive not less than ten feet in width in the case of a dwelling, and not less than eighteen feet in width in all other cases, leading to the loading or unloading spaces and parking areas required hereunder. Except where it is provided in connection with a use permitted in a Residence District, such easement of access or access drive shall not be located in any Residence District.

(f) Other provisions of this Zoning Code notwithstanding, off-street parking areas, exclusive of driveways, in Residence, Conservation and residential PUD Districts must meet the same setback requirements as for principal buildings. In other zoning districts, however, off-street parking may be located within ten feet of the public right of way, provided that such ten-foot strip meets appropriate Village landscaping requirements.

(g) In the case of any building, structure or premises the use of which is not specifically mentioned herein, the provisions for similar uses which are mentioned shall apply. The determination of similarity shall be made by the Planning Commission.

(h) All new off-street parking areas and any expansion by more than ten percent of existing parking areas shall meet the standards for stormwater runoff control as adopted by the Village of Yellow Springs.

1268.03 DESIGN REQUIREMENTS.

(a) Parking spaces shall be developed to encompass 162 net square feet and shall be dimensioned to be nine by eighteen feet.

(b) In order to provide safe and efficient means of vehicular access to each parking space, the width and design of aisles shall be in accordance with the following:

Parking Angle (degrees) Aisle Width (ft.)

60	18
90	24

The parking angle shall be measured between the centerline of the parking space and the centerline of the aisle.

(c) Required off-street parking spaces shall be so designed, arranged and regulated as to have individual spaces marked, to be unobstructed and to have access to an aisle or driveway, so that any automobile may be moved without moving another and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right of way or walkway. The spaces shall be provided with bumper guards or wheel guards so located that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required yard or onto any adjoining property.

(d) The layout of parking areas shall be subject to the approval of the Zoning Administrator, who shall gauge adequacy on the basis of accepted engineering and safety standards.

(e) All unenclosed off-street parking areas, with the exception of single-family residential driveways, shall be separated from public rights of way by a clear or landscaped area of at least ten feet in width.

(f) A six-inch high curb, to confine surface drainage and limit the movement of vehicles, shall be provided along the outer perimeter of all off-street parking areas for five or more vehicles.

(g) A six-inch high curb, or other obstructions to movement approved by the Zoning Administrator, shall be maintained so that an unobstructed and untraveled three-foot corridor is maintained between the principal structures on a lot and off-street parking areas.

(h) Unenclosed off-street parking areas and associated driveway areas of over 15,000 square feet shall meet applicable yard requirements for principal buildings in the zoning district where they are proposed, or shall be located no closer than fifty feet from a lot line, whichever requirement imposes the lesser restriction.

(i) Lighting used to illuminate off-street parking and loading areas shall be equipped with suitable shielding or be so arranged as to prevent glare or reflective lighting on adjoining property.

(j) Any parking area to be used by the general public shall provide parking spaces designated and located to adequately accommodate the handicapped, and those spaces shall be clearly marked as such. A ratio of one parking space for the handicapped per ten standard parking spaces shall be required. These stalls shall have a width of twelve feet.

- (k) New or additional curb cuts and drive entries for nonresidential uses shall meet the following standards:
1. Ingress or egress driveways will be located at least twenty-five feet from the intersecting right-of-way lines of two streets;
 2. Driveways will not exceed thirty feet in width at a point ten feet toward the property being served from a curb line;
 3. There will be at least twenty-five feet between driveways located on the same lot, or as much room between driveways as the average of their width as measured pursuant to paragraph (c)(4)B. hereof, whichever standard is higher;
 4. All driveways will be perpendicular, or no more than thirty degrees from perpendicular, to the curb or right-of-way line;
 5. The portion of ingress or egress driveways located in the public right of way will not serve as temporary parking space for vehicles maneuvering on the lot or awaiting access to facilities;
 6. Driveways will not be closer than fifteen feet to an adjacent property line;
 7. Engineering standards relating to minimum construction specifications shall comply with those standards adopted by the Village as part of its Subdivision Regulations

1268.12 DRIVE-IN COMMERCIAL USES

Drive-in/drive-thru facilities shall conform to the following requirements:

- (a) A minimum of five car storage spaces are provided in conjunction with such service uses and are designed so that the storage begins at the ordering location and continues back from there. Three car lengths must be provided between the ordering location and the order pick-up location. This standard applies for any activity where service typically takes three minutes or less per patron.
- (b) Seven car storage spaces must be provided beginning at the ordering location, and three car lengths must be provided between the ordering location and the pick-up location for such services that typically take longer than three minutes per patron.

The following changes are proposed for Chapter 1272 Conditional Uses

CHAPTER 1272 Conditional Uses

1272.05 STANDARDS FOR SPECIFIC CONDITIONAL USES.

In addition to meeting standards above and elsewhere in this Zoning Code,

particularly Chapters 1268 and 1278, the Planning Commission shall find the following conditions met before approving a conditional use:

- (c) Nonresidential uses in a Central Business District must be conditionally approved when required by Section 1256.03. The Planning Commission may approve submitted plans when:
 - (1) On-street parking demand is not likely to be disruptive of relatively high parking turnover in front of other businesses;
 - (2) Additional curb cuts will not be required along Xenia Avenue between Glen and Corry Streets and on Dayton Street between Corry and Walnut Streets;
 - (3) No single business has lot coverage under roof exceeding the maximums outlined in Section 1256.06, except that when a developed public plaza or landscaped open space is provided, building lot coverage may be increased by one square foot for every two square feet of public and/or open space provided.
 - (4) Large Buildings and Lots in the Central Business District, as defined in Section 1256.04 may be approved when:
 - A. The design is complementary to the character of the district in terms of height, apparent bulk, setback and pedestrian orientation.
 - B. Space other than ground floor space may be utilized for offices, studios, light production, residences or similar permitted or conditional uses.
 - C. Off-street parking areas should be designed so they do not dominate the view from the main thoroughfare.
 - D. New curb cuts are prohibited on Xenia Avenue between Limestone and Corry Streets.

Delete existing subsection (c)(4)) and add the same text to Chapter 1268 Off-Street Parking

- (5) When a light manufacturing/assembly use is proposed, information regarding the associated noise, odor, smoke, dust and any other potential impact on the adjacent uses shall be provided to the Planning Commission as part of the conditional use request. Based on this information, the Planning Commission may require additional screening or setback(s) where an adverse impact on the adjoining uses is perceived.
 - (6) Proposed uses involving drive-in/drive-thru facilities shall comply with the appropriate parking and loading requirements as outlined in Chapter 1268.
- (g) Bed and breakfast establishments may be approved when:
 - (1) The establishment is restricted to allowing no more than five unrelated individuals to inhabit the facility at any given time. The Planning

Commission may consider requests for a larger facility, if deemed appropriate by the Commission;

- (2) Access to the establishment from adjacent streets is adequate and the additional traffic generated by the establishment does not create a nuisance for the surrounding residences and/or other uses;
- (3) Parking provisions, as outlined in Chapter 1268, are provided and the parking facilities are designed to minimize adverse effects upon adjoining properties; and
- (4) Signs shall conform to the requirements of Chapter 1276.

Delete subsection (h) and add the same text to Chapter 1268 Off-Street Parking.

Two recent sign cases at the BZA also yielded suggestions from the BZA for relief. The following amendments are suggested as remedies. The first suggestion would permit modest roof signs like those recently installed at Dolbeer's Cleaners and Déjà Vu:

CHAPTER 1276 Signs

1276.03 SIGNS PROHIBITED IN ALL ZONING DISTRICTS.

(a) The following types of signs are prohibited in all districts:

- (1) Action signs, except public service signs and signs used for standard sized barber poles without any worded message;
- (2) Billboard signs;
- (3) Roof signs, with the exception of signs below the ridge line on single-story buildings with gable or hip roofs; and
- (4) Any sign illuminated by direct lighting.

(b) No sign shall be so designed and erected, so illuminated, or operated in such a way or in such a location, that it conflicts with or detracts from the effectiveness or visibility of an official traffic light or sign or constitutes a menace to traffic safety or radio communication.

(c) No sign shall be placed in such 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.

(d) No sign shall be affixed to any tree, fence, utility pole, street light or other similar structures.

(e) Signs that no longer advertise a bona fide operation, business or product sold are not permitted. They shall be removed when the business ceases or the product is no longer available and at the expense of the owner of the building, structure or property to which the sign is connected.

(f) No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other moving devices. Such devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention.

The second sign issue is the total area allowed for wall signs. The suggested change is intended to provide limited relief and maintain the character of the CBD. A full page of text precedes the small text change to provide context:

1276.07 SIGNS IN THE CENTRAL BUSINESS DISTRICT.

(a) In General.

(1) A maximum of two types and three total signs per principal building are allowed on any one lot regardless of the number of tenants.

(2) Advertising vehicles or any other accessory structures or uses supporting advertising are prohibited.

(3) No sign shall cover architectural details such as, but not limited to, arches, sills, moldings, cornices and transom windows.

(4) No sign shall remain illuminated between the hours of 11:00 p.m. and 7:00 a.m. of the following day unless the associated use is operating during those hours.

(5) Internally illuminated plastic/acrylic/vinyl signs are permitted only if they are of a custom design.

(6) Trademarks and nationally recognized logos may occupy a maximum of twenty percent of any sign.

(7) If individual establishments located in a single building wish to share a common sign, a total sign area of 150 percent for the specific type of sign shall be permitted. This limitation applies to signs specifically mentioned below, as well as those that might be erected in accordance with Section 1276.04.

(b) Requirements by Type of Sign.

(1) For free-standing signs, whenever the front of a building is ten feet or more from the front property line, one free-standing sign per property may be displayed, provided that:

- A. The maximum area for each side of the sign is fourteen square feet;
- B. The maximum height of the sign does not exceed fourteen feet with the upright supporting the sign at a maximum of sixteen feet;
- C. The sign is erected on private property and does not encroach on public rights of way;
- D. The horizontal dimension of the sign does not exceed seven feet;
- E. Such sign is of permanent construction and constructed according to the provisions of the Building Code;
- F. Such sign, if lighted, is illuminated internally or indirectly.

(2) Projecting signs. Projecting signs are permitted, provided that:

- A. The overall size of such sign does not exceed six square feet per face;
- B. The sign does not project more than three feet from the building and does not encroach on a public right of way more than twelve inches;
- C. The minimum clearance of the sign shall be at least eight feet above the ground;
- D. If two or more businesses inhabit a single building and elect to use projecting signs, the overall size of such signs shall not exceed eighteen square feet;
- E. No sign is within six feet of any alley.

(3) Wall signs. Wall signs are permitted, provided that:

- A. The depth of such sign shall not project from the building more than twelve inches;
- B. Such sign shall not extend beyond the building roof or side;
- C. The total sign area cannot exceed one square foot per linear foot of building face parallel to the street;

D. A single property may have two or more wall signs, but the total square footage of both shall not exceed the total allowable area;

E. Canopy, roof and/or awning signs count as wall signs and shall have a minimum height of eight feet above the existing grade;

F. In the case of a building which fronts on two or more streets, a sign may appear on each wall facing a street. The total sign area of these signs shall be no greater than that allowable by front-foot computation of the larger wall.