

TITLE FOUR - Zoning

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CHAPTER 1240

General Provisions and Definitions

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CROSS REFERENCES

Division of municipal corporations into zones - see Ohio R.C. 713.06
 Restrictions on location, bulk and height of buildings and structures - see Ohio R.C. 713.07
 Restrictions on height of buildings and structures - see Ohio R.C. 713.08
 Restrictions on percentage of lot occupancy and set-back building lines -
 see Ohio R.C. 713.09
 Basis of districting or zoning; classification of buildings or structures -
 see Ohio R.C. 713.10
 General definitions - see ADM. 202.02
 Planning Commission - see P. & Z. Ch. 1220
 Zoning permits and fees - see P. & Z. 1242.01 et seq., 1242.07, 1274.03, 1276.11

1240.01 SHORT TITLE; PURPOSES.

The Zoning Code for the Village of Yellow Springs, Ohio, hereinafter referred to as "this Zoning Code," is enacted in the interest of promoting the public health, safety, convenience, comfort, prosperity and general welfare; to conserve and protect property and property values; to serve the most appropriate use of land; to control the density of population; and to prevent undue traffic congestion; all in accordance with a Comprehensive Development Plan for the desirable future development of the Village; to provide a method of administration and to prescribe penalties for violations of provisions of this Zoning Code.
 (Ord. 91-12. Passed 12-2-91.)

1240.02 INTERPRETATION; CONFLICTS OF LAWS.

(a) The term "Zoning Code" means and refers to Ordinance 81-11, passed July 6, 1981, codified herein as Title Four - (Zoning) of Part Twelve - the Planning and Zoning Code, including amendments which have been or may be added thereto.

(b) As used in this Zoning Code, the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

(c) In interpreting and applying the provisions of this Zoning Code, said provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Zoning Code to interfere with, abrogate or annul any easements, covenants or other agreements between parties, unless they violate this Zoning Code, provided that where the regulations of this Zoning Code are more restrictive or impose higher standards or requirements than such easements, covenants or other agreements between parties, the requirements of this Zoning Code shall prevail. Except as otherwise provided in Section 1276.01, when two specific provisions of this Zoning Code conflict, or when a provision of this Zoning Code conflicts with any other code, statute, law, ordinance or regulation, the more restrictive section shall apply.
 (Ord. 91-12. Passed 12-2-91.)

1999 Replacement

1240.03 SEPARABILITY.

Should any section or provision of this Zoning Code be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Zoning Code as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. 91-12. Passed 12-2-91.)

1240.04 COMPLIANCE GENERALLY.

Except as hereinafter specifically provided:

(a) No land shall be used except for a purpose permitted in the zoning district in which it is located.

(b) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used:

(1) Except for a use permitted in the district in which such building is located;

(2) In such a manner that it exceeds the height limit herein established for the district in which such building is located;

(3) Except in conformity with the area, yard and coverage regulations of the district in which such building is located; and

(4) Except in conformity with the off-street parking and loading regulations of this Zoning Code.

(c) The minimum yards, front yard depths, parking spaces or open spaces, including lot area per family, required by this Zoning Code for each and every building existing at the time of the passage of this Zoning Code, or for any building hereafter erected or structurally altered, shall not be encroached upon or be considered as part of the yards, front yard depths, parking spaces or open spaces required for any other buildings. Further, no lot area shall be reduced below the requirements of this Zoning Code for the district in which such lot is located.

(d) No land shall be used for any purpose, and no building permit shall be issued, until a zoning permit has been issued by the Zoning Administrator.

(e) No new structure or building shall be occupied or used, and no existing structure or building shall change in use, until a zoning permit has been issued by the Zoning Administrator. For the purposes of this section, "change in use" shall mean a change of a nonconforming or principally or conditionally permitted use (for example, a change from a one-family use to a church use in a Residence "A" District).

(f) In order to protect the public health, safety and welfare, large multifamily developments may not be concentrated in one area of the Village. No one multifamily building containing nine or more units, or a complex of multifamily buildings containing twenty or more units, shall be located closer than 1,000 feet to another multifamily building containing nine or more

units or a complex of multifamily buildings containing twenty or more units. The 1,000 feet shall be measured by a straight line, boundary to boundary, between the two closest points of the respective sites.

(Ord. 91-12. Passed 12-2-91; Ord. 93-12. Passed 12-6-93.)

(g) Any specific land use activity not regulated in this Zoning Code may be presented to Council for consideration. The Council shall consider the request and determine its appropriateness, assuring that the intention of this Zoning Code is upheld.

(Ord. 94-9. Passed 6-6-94.)

1240.05 STREET FRONTAGE REQUIRED.

(a) No lot shall be created which does not have frontage on an improved public street, and newly created lots shall conform to the provisions of this Zoning Code.

(b) Except as permitted by other provisions of this Zoning Code, no lot shall contain any building used in whole or in part for residential purposes unless such lot abuts at least sixty feet on a public street. Where a lot fronts a cul-de-sac turn-around or an interior curve of a curvilinear street, the lot must abut at least forty feet on a public street and the lot width at the front building setback line shall be at least sixty feet.

(c) Where lot specifications are absent in this Zoning Code, lot frontage on a public street shall be more than half the frontage of the principal structure(s) to be accommodated by a newly created lot, and the proposed structure must be set back from the front of the lot so that the side yard requirements are met while maintaining the rear yard requirement.

(Ord. 91-12. Passed 12-2-91.)

1240.06 PROHIBITED USES.

Within the Village, no lot, land, premises, place or building shall be used, and no building or structure shall be erected or placed, which is arranged, intended or designed to be used, in whole or in part, for any of the following specified uses:

(a) Slaughterhouses; distillation of bones; explosives, fireworks or gunpowder and the manufacture or storage of the same; quarrying or mining outside an Agricultural District; gas and petroleum production or exploration; feed lots; pyroxylin products; stockyards; manufacture of sulphurous, sulphuric, nitric or hydrochloric acids or other corrosive or escharotic substances; tanning, curing or storage of raw hides or skins; junk yards; or similar dangerous and noisome uses;

(b) Mobile home parks or single trailers used as residences;

(c) Billboards;

- (d) More than one principally permitted use or structure per lot, whether involving residential purposes or not, unless approved by the Planning Commission. Appropriate standards, as determined by the Commission, shall be utilized in the Commission's review.

(Ord. 91-12. Passed 12-2-91; Ord. 92-16. Passed 11-2-92; Ord. 94-9. Passed 6-6-94; Ord. 95-5. Passed 5-1-95.)

1240.07 PENDING APPLICATIONS FOR BUILDING PERMITS.

Nothing contained in this Zoning Code shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof, for which official approvals have been legally granted, either in writing or by recordation of appropriate minutes, before the enactment of this Zoning Code, the construction of which, conforming with approved plans, has been started within six months of the effective date of this Zoning Code, and completion thereof has been accomplished within two years of the issuance of a building permit. (Ord. 91-12. Passed 12-2-91.)

1240.08 AMENDMENTS.

(a) Whenever it is justified or required by the public necessity, convenience or general welfare, good zoning practice or the provisions of the Yellow Springs Comprehensive Development Plan, and after a public hearing, report and recommendation of the Planning Commission thereon, Council may, by ordinance, amend, supplement, change or repeal the regulations, restrictions, zoning district boundaries or classifications of property specified by these regulations.

(b) The Planning Commission may, upon its own motion, propose and hear amendments to the district boundaries or to the text of this Zoning Code.

(c) Any person owning or occupying real estate within the Village limits may petition Council to amend the district boundaries in which such real estate is located or which such real estate abuts. Such petition shall be accompanied by an application in an approved format to be furnished by the Zoning Administrator and must include an accurate survey or legal description of the subject property. Such petition and application shall be referred to the Planning Commission for hearing, report and recommendation within 60 days of its receipt at a regularly scheduled meeting.

(d) The Planning Commission, before submitting its recommendation on a proposed amendment to Council, shall hold at least one public hearing thereon, notice of which shall be given in a newspaper of general circulation in the Village at least ten days prior to such hearing.

(e) Procedures before the Planning Commission shall be governed by rules and regulations adopted by the Commission and on file with the Clerk of Council.

(f) Before new or amended zoning provisions may be adopted, Council shall hold at least one public hearing thereon, notice of which shall be given in a newspaper of general circulation in the Village at least thirty days prior to such hearing.

(g) In the matter of all rezonings, a map of the area affected and a summary of essential provisions shall be published in a newspaper of general circulation in the Village, by both the Planning Commission and Council before their respective public hearings.

(h) If a zoning amendment has as its intent the rezoning of ten or fewer parcels, written notice shall be mailed, at least twenty days before the hearing, to owners of parcels to be rezoned, to owners of parcels abutting those being rezoned and to owners of parcels across the street from areas being rezoned. Mailed notices shall be sent to the addresses of such owners appearing on the County Auditor's current tax list.

(i) During the thirty days before the Council sponsored public hearing, 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.

(j) Zoning changes adopted by Council must be adopted by an affirmative vote of a majority of the members present in a quorum if they are in accord with the recommendations of the Planning Commission, and adopted by the affirmative vote of three of the members if they are at variance with the recommendations of the Planning Commission.

(k) No Zoning Code change shall be passed as an emergency ordinance.
(Ord. 91-12. Passed 12-2-91; Ord. 2004-12. Passed 4-5-04.)

1240.09 DEFINITIONS.

For the purpose of this Zoning Code, certain terms and words used herein shall be interpreted as follows:

- (1) "Accessory structure" means a subordinate structure detached from, but located on the same lot as, the principal structure, the use of which is incidental and accessory to that of the principal structure.
- (2) "Accessory use" means a use incidental to, and on the same lot as, a principal use.
- (3) "Addition" means 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.

(4) "Agricultural" means 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, provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and, provided, further, that the above uses shall not include the commercial feeding of garbage or offal to swine and other animals.

(5) "Alley" means 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.

(6) "Alterations, structural" means any change in the supporting members of a building, such as walls, floors, columns, beams or girders.

(7) "Apartment" means a dwelling unit consisting of one or more rooms, together with kitchen and sanitary facilities, that is one part of a larger structure.

(8) "Apartment house" means any building housing three or more apartment units, provided that such units are the principal use of the building.

(9) "Aquifer" means a geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water.

(10) "Aquifer recharge area" means an area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into ground water.

(Ord. 92-16. Passed 11-2-92.)

(10A) "Area of special flood hazard" means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, A1-30 and A99.

(Ord. 97-07. Passed 7-7-97.)

(11) "Automotive repair" means the repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting and steam cleaning of vehicles.

(12) "Awning" means a protective covering projecting from and supported by the exterior wall, door or window of a building and constructed of non-rigid materials on a supporting framework.

(13) "Bar" means a lounge, tavern, beer parlor, night club or similar establishment principally operated for the sale of alcoholic beverages to be served on the premises. (Ord. 92-16. Passed 11-2-92.)

(13A) "Base flood" means a flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 100-year flood.

(Ord. 97-07. Passed 7-7-97.)

(14) "Basement" or "cellar" means a story, all or partly underground, having at least one-half of its height below the average level of the adjoining ground.

(15) "Bed and breakfast inn" means a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

(16) "Boarding house," "rooming house" or "lodging house" means a building, or part thereof, other than a hotel, motel or restaurant, for three or more unrelated persons, not transients, where no cooking or dining facilities are provided in individual rooms.

(17) "Buildable area" means the space remaining on a lot after the minimum open space requirements (coverage, yards, setbacks) have been met.

(18) "Building" means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property. At no time shall this definition be construed to include mobile homes.

(19) "Building, edge of" means the horizontal limit of a building, including the drip or eave line of all roofs, carports, permanent awnings and decks.

(Ord. 92-16. Passed 11-2-92.)

(20) "Building, height of" means 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. Subsurface grades which contain an access point with associated vertical walls only are not included in the calculation of the average grade.

(Ord. 97-07. Passed 7-7-97.)

(21) "Building, principal" means a building in which is conducted the main or principal use of the lot on which said building is located, ordinarily the largest building on a lot and ordinarily the use conducted on the first story of such building, above the basement.

(22) "Canopy" means a rigid, permanent cover over a walkway, attached to a building.

(23) "Car wash" means an area of land and/or a structure with machine or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.

(24) "Carport" means 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 driven vehicles.

(25) "Child care facility (day care center)" shall be defined as follows:

A. "Family child care home" means a private residence where care, protection and supervision are provided, for a fee, at least twice a week and to no more than six children at one time, including the children of the adult provider;

B. "Group child care center, Class A" means a building or structure where care, protection and supervision are provided, on a regular schedule, at least twice a week to at least seven and no more than twelve children, including children of the adult provider;

C. "Group child care center, Class B" means a building or structure where care, protection and supervision are provided on a regular schedule, at least twice a week to more than twelve children, including children of the adult provider.

(26) "Cluster housing" means an arrangement that allows dwelling units to be grouped in such a way as to trade the open space usually surrounding individual structures for common open space. Yard requirements relevant to individual structures may be waived under such circumstances and applied to a grouping of clustered structures instead.

(27) "Comprehensive Development Plan" means the Plan, or any portion thereof, adopted by the Planning Commission and/or Village Council, showing the general location and extent of present and proposed physical facilities, including housing, industrial and commercial uses, major streets and other transportation facilities and parks, schools and other community facilities. This Plan establishes the goals, objectives and policies of the community.

(28) "Conditional use" means 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 different from those usual requirements for the district in which the conditional use may be located.

(29) "Conservation area" means an environmentally sensitive land protected from activities that would significantly alter its ecological integrity, balance or character.

(30) "Conservation easement" means 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.

(31) "Density, gross" means the dwelling unit density of a particular area measured by the number of dwelling units divided by the total number of acres, including public rights of way as well as public and private land holdings.

(32) "Density, net" means the dwelling unit density of a particular area measured by the number of dwelling units divided by the total number of acres, excluding public rights of way.

(33) "Dormitory" means a building used as group living quarters for a student body, religious order or other group as an associated use to a college, university, boarding school, orphanage, convent or other similar use. These do not include kitchen facilities, except a group kitchen facility to serve all residents.

(34) "Drainageway" means a watercourse, gully, dry stream, creek or ditch which carries storm water runoff, which is subject to flooding or ponding, which is fed by street or building gutters, or by storm water sewers, or which serves the purpose of draining water from the lands adjacent to such watercourse, gully, dry stream, creek or ditch.

(35) "Dwelling" means a building, or portion thereof, used exclusively for residential occupancy, including one-family, two-family and multifamily dwellings, but not including hotels, lodging or boarding houses or tourists homes.

A. "Dwelling, single-family" means a building consisting of a single dwelling unit only, separated from other dwelling units by open space.

B. "Dwelling, two-family" means a building consisting of two dwelling units or designed for or used by two families or housekeeping units.

C. "Dwelling, mobile home (including automobile trailer, travel trailer, pick-up camper and trailer coach)" means any vehicle or structure constructed to permit occupancy thereof as sleeping quarters or for the conduct of any business, trade or occupation, for use as a selling or advertising device or for use for storage or conveyance for tools, equipment or machinery, and so designed that it is or may be mounted on wheels and conveyed on highways and streets, propelled or drawn by its own or other motor power.

D. "Dwelling, multifamily" means a building or portion thereof consisting of three or more dwelling units with varying arrangements of entrances and party walls, including a row dwelling.

(36) "Dwelling unit" means a one-family dwelling or a portion of a two-family, multifamily or row dwelling used by one family for cooking, living and sleeping purposes.

(37) "Easement" means the right of a person, government, agency or public utility company to use public or private land owned by another for a specific purpose.

(38) "Eminent domain" means the legal right of government to acquire or take private property for public use or public purpose upon paying just compensation to the owner.

(39) "Essential services" means 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.

(40) "Facade" means the exterior wall of a building exposed to public view or which can be viewed by persons not within the building.

(41) "Family" means a person living alone or two or more persons living together as a single housekeeping unit, in a dwelling unit, as distinguished from a group occupying a boarding house, lodging house, dormitory, motel or hotel.

(42) "Farm" means 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. It includes farm structures within the prescribed limits and the storage of equipment used. It excludes riding stables, dog kennels, establishments for the raising of fur-bearing animals and retail sales buildings offering products not produced on the premises.

(Ord. 92-16. Passed 11-2-92.)

(42A) "Federal Emergency Management Agency" (FEMA) means the agency with the overall responsibility for administering the National Flood Insurance Program. (Ord. 97-07. Passed 7-7-97.)

(43) "Fence" means an enclosure or barrier, the purpose of which is to physically and/or visually contain certain uses and activities which are carried out on a particular lot. (Ord. 92-16. Passed 11-2-92.)

(43A) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from:

A. The overflow of inland or tidal waters; and/or
B. The unusual and rapid accumulation or runoff of surface waters from any source.

(43B) "Flood Hazard Boundary Map" means the official map issued by FEMA where the areas of special flood hazard have been designated as Zone A.

(43C) "Flood Insurance Rate Map" (FIRM) means an official map on which FEMA has delineated the areas of special flood hazard.

(Ord. 97-07. Passed 7-7-97.)

(44) "Floor area ratio" means a division of the gross floor area of all buildings on a lot by the area of that lot.

(45) "Front foot" means the width measured in a straight line parallel and adjacent to the street.

(46) "Garage, private" means 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.

(47) "Garage, public" means 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.

(48) "Garage, service station" means any land and building used for the supply of gasoline, oil or other fuel for motor vehicle propulsion. This definition can also include facilities for washing, polishing, greasing and otherwise servicing motor vehicles and for the sale of accessories.

(49) "Grade" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or, when the property line is more than five feet from the building, then between the building and a line five feet from the building.

(50) "Group home, adult" means a home for the aged or 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 retarded, blind, deaf, mute, neurologically handicapped or physically handicapped persons over seventeen years of age.

(51) "Group home, juvenile" means 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 retarded, blind, deaf, mute, neurologically handicapped, physically handicapped or delinquent juvenile persons under eighteen years of age.

(52) "Hazardous substances" means 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.

(53) "Hedge" means a dense growth of shrubbery, usually planted to function as a fence or boundary. (Ord. 92-16. Passed 11-2-92.)

(53A) "Historic structure" means any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

B. 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;

C. 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

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or

2. Directly by the Secretary of the Interior in states without approved programs.

(Ord. 97-07. Passed 7-7-97.)

(54) "Home occupation" means a commercial activity within a residential zone or a residential planned unit development that is clearly incidental and secondary to the use of the dwelling for residential purposes.

(55) "Impervious surface" means any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land.

(56) "Junk yard" means 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.

(57) "Kennel" means an establishment licensed to operate a facility housing dogs, cats or other household pets and where grooming, breeding, boarding, training or selling of animals is conducted as a business.

(58) "Kennel, private" means any building or buildings or land designed or arranged for the care of dogs, cats or other household pets belonging to the owner of the principal use, kept for the purposes of show, hunting or other recognized similar activities.

(59) "Lighting" shall be defined as the following:

A. Direct, which includes incandescent, fluorescent, arc or any other type of illumination which is directly visible to persons viewing from any normal position.

B. Indirect, which includes any source of external illumination located a distance away from the sign, which lights the sign but is itself not visible to persons viewing the sign from any normal position.

C. Internal, which includes any source of illumination entirely within the sign which makes the sign content visible at night but is itself not visible to persons viewing the sign from any normal position. Neon tubes shall be considered internal lighting.

(60) "Lot" means a piece, plot, parcel or tract of land occupied or intended to be occupied by a principal building, or a group of such buildings and accessory buildings per allowances in this Zoning Code, or utilized for a principal use and used accessory thereto, together with such open spaces as are required by this Zoning Code, and having frontage on an improved public street.

(61) Lot measurements shall be defined as follows:

A. "Area" of a lot means the area contained within the lot lines.

B. "Coverage" means the amount, usually stated as a percentage, of lot area, measured on a horizontal plane, covered by a structure or part thereof from the ground upward.

C. "Frontage" of a lot means the portion nearest the public street right of way. In the case of corner lots, all sides of a lot adjacent to streets shall be considered frontage and yards shall be provided with reference to each right of way abutted.

D. "Lot line" means the property lines bounding a lot, excluding any area within a public right of way. (See Appendix A following the text of this Zoning Code.) Specifically:

1. A front lot line separates a lot from a public street right-of-way.

2. A rear lot line is opposite and most distant from the shortest (reference corner lot) front lot line.

3. A side lot line is any lot line other than a front or rear lot line.

(62) "Lot of record" means a lot which is part of a subdivision approved by Village Council and recorded in the office of the County Recorder, or a lot meeting the requirements of this Zoning Code and registered with the Village and County through recordation of a survey approved by the Zoning Administrator of Yellow Springs.

(63) "Lot types" shall be defined as follows: (See Appendix A following the text of this Zoning Code.)

A. "Corner lot" means a lot located at the intersection of two or more streets.

B. "Interior lot" means a lot other than a corner lot with only one frontage on a street.

C. "Through lot" means a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots. (Ord. 92-16. Passed 11-2-92.)

(63A) "Lowest floor" means 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 design requirements specified in this Zoning Code for enclosures below the lowest floor.

(Ord. 97-07. Passed 7-7-97.)

(64) "Manufactured home" means a dwelling unit fabricated in an off-site facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards.

(65) "Marquee" means a permanent roof-like structure or canopy of rigid materials supported by and extending from the building front.

(66) "Nonconforming building" means any building that does not meet the limitations on size and/or location on a lot, for the district in which the building is located, for the use being served.

(67) "Nonconforming lot" means a parcel which lawfully existed prior to the adoption, revision or amendment of this Zoning Code, but which fails to conform to the use district in which it is located.

(68) "Nonconforming use" means a lawful use of land that is existing or used at the time of the adoption of this Zoning Code, or any addition thereto, which does not conform with the use regulations of the district in which it is located, but which did comply with applicable regulations at the time the use was established. (Ord. 92-16. Passed 11-2-92.)

(69) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment, require skilled nursing care, and of individuals who require personal care services but not skilled nursing care. This is a licensed facility that provides personal care services and skilled nursing care. (Ord. 95-5. Passed 5-1-95.)

(70) "Open space" means ground area unobstructed by structures, storage or parking areas from the ground upward.

(71) "Parking lot" means an area not within a building where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking.

(72) "Parking space, off-street" means an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but located totally outside of any street or alley right of way.

(73) "Performance standard" means a minimum requirement or maximum allowable limit on the effects or characteristics of a use, usually in the form of regulatory language.

(74) "Permitted use" means a use by right which is specifically authorized in a particular zoning district. (Ord. 92-16. Passed 11-2-92.)

(75) "Person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

(76) "Personal care services" means any service, including, but not limited to:

- A. Assisting residents with daily living activities;
- B. Assisting residents with self-administration of medication;

and

C. Preparing special diets for residents according to instructions by a physician or licensed dietitian. (Ord. 95-5. Passed 5-1-95.)

(77) "Personal services" means any enterprise conducted for gain which primarily offers services to the general public, including enterprises such as shoe repair, watch repair, barber shops, beauty parlors and similar activities.

(78) "Planned unit development" means land under unified control, planned and developed as a whole and as follows:

- A. In a single development operation or a definitely programmed series of development operations, including all lands and buildings;
- B. According to comprehensive and detailed plans which include not only streets, utilities, lots or building sites, but also site plans and design principles for all buildings intended to be located, constructed, used and related to each other, and detailed plans for uses and improvements on the land as related to the buildings; and

C. With a program for provision, operation and maintenance of such areas, improvements and facilities necessary for common use by some or all of the occupants of the development, but which will not be provided, operated or maintained at general public expense.

(79) "Principal use" means the main use of land or structures, as distinguished from a secondary or accessory use.

(80) "Recreational vehicle" is defined as and shall include the following:

A. A "travel trailer" is a vehicular, portable structure built on a chassis and designed to be used as a temporary dwelling for travel, recreational and vacation uses.

B. A "pick-up camper" is a structure designed primarily to be mounted on a pick-up truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.

C. A "motor home" is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

D. "Boats" and "boat trailers" shall include boats, floats, rafts and other buoyant structures for recreational use plus the normal equipment to transport the same on the highway.

(81) "Recycling center" means a building or location in which used material is separated and processed prior to shipment to others who will use the materials to manufacture new products.

(82) "Recycling collection point" means a use that serves as a drop-off point for temporary storage of recoverable resources intended for re-use in the manufacture of new products. No processing of these items is allowed.

(83) "Residential design unit" means a multisectional, prefabricated housing unit that has the appearance of a traditional home.

(84) "Restaurants" means the following:

A. "Sit-down restaurants" are establishments principally operated for the sale of food and nonalcoholic beverages to be served on the premises where alcoholic beverages are determined to be a supplement of less than forty percent of the use of the area and equipment on the premises. Calculations to be made in such determination shall measure service equipment, seating, service area and staff. Service facilities are judged on their principal use and may not be designated as having a multiple use.

B. "Carry-out restaurants" are establishments offering food and beverages to be dispensed at the counter for consumption on or off the premises.

C. "Drive-in restaurants" are establishments offering food and nonalcoholic beverages served directly to persons while in motor vehicles and dispensed at the counter for consumption on or off the premises.

(85) "Rezoning" means an amendment to or a change in this Zoning Code which takes one of three forms:

A. A comprehensive revision or modification of the zoning text and the Zoning Map;

B. A text change in the zone requirements; and

C. A change in the Zoning Map.

(86) "Right of way" means a strip or area of land taken or dedicated for use as a public way. In addition to paved areas, it normally incorporates curbs, lawn strips, sidewalks, lighting and drainage facilities.

(87) "Roof line" means a line that follows the slope of the roof at its intersection with the external walls of the building.

(88) "Screening" means 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.

(89) "Setback" means the required minimum horizontal distance between the building line and the related front, rear and side property lines.

(90) "Shall" is a mandatory requirement; "may" is a permissive requirement; and "should" is a preferred requirement.

(91) "Sign" means any device, structure, fixture or placard using graphics, symbols and/or written copy, including any nationally recognized logo or color scheme designed for the purpose of advertising or identifying any establishment, product, good or service.

(92) "Sign, action" means any sign which, in whole or in part, rotates, revolves or otherwise is in motion. This includes the apparent movement of any light used in connection with the sign, such as blinking, traveling, changing of intensity or any movement other than burning steadily.

(93) "Sign area" includes everything encompassed within a frame, whether such frame exists or not. Area shall be computed to include all existing signs on the premises. The area of a sign having more than one display surface shall be computed as the total of the exposed exterior display surface area.

(94) "Sign, billboard" means a free-standing panel erected for the display of poster or painted advertising matter concerning goods or services not available on the site containing the sign.

(95) "Sign, canopy" means any sign that is in any way physically related to a canopy.

(96) "Sign, change panel" means a sign designed to permit immediate change of copy which may be other than the name of the business.

(97) "Sign clearance" means the smallest vertical distance between the finished grade of the adjacent street, street curb or sidewalk and the lowest point of any sign, including framework and embellishments, extending over that grade.

(98) "Sign, freestanding" means any sign which is detached from any building.

(99) "Sign height" means the vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

(100) "Sign, illuminated" means any sign which is lighted by any manmade light.

(101) "Sign, political" means any sign dealing with candidates or issues appearing on a ballot in an election sanctioned by the Board of Elections.

(102) "Sign, projecting" means any sign attached to a building or other structure and extending in whole or in part more than twelve inches from such structure.

(103) "Sign, public service" means any sign whose purpose is solely to serve the public and which does not advertise a business.

(104) "Sign, roof" means any sign erected in any way upon a building or structure which extends above the roof line of such building or structure.

(Ord. 92-16. Passed 11-2-92.)

(105) "Sign, special purpose" means any sign associated with a use not previously defined as a principal or conditional use, or a use, other than a use by right, as outlined in this Zoning Code. (Ord. 98-2. Passed 5-4-98.)

(106) "Sign, temporary" means any sign intended to be used or suitable for use for three months or less.

(107) "Sign, traffic directing" means any sign used to direct motor vehicle, bicycle and/or pedestrian traffic entering or leaving business establishments or shopping centers.

(108) "Sign, wall" means any sign attached to or erected in a plane parallel to a wall.

(109) "Sign, window" means any 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.

(110) "Site plan" means a plan, 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.

(Ord. 92-16. Passed 11-2-92.)

(111) "Skilled nursing care" means 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.

(Ord. 95-5. Passed 5-1-95.)

(112) "Special exception" means a use that would not be appropriate generally without restriction throughout a zoning district, but which, if controlled to the number, area, location and/or relation to the neighborhood, would promote the public health, safety and general welfare.

(113) "Story" means 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.

(114) "Street" means 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.

(115) "Structure" means anything constructed, erected or placed which requires location on the ground or attachment to something having location on the ground. The term includes patio and parking area, exclusive of driveways and walkways. Devices used for the support of wires and appurtenances supplying public utility services shall not be considered as structures under this Zoning Code.

(116) "Subdivision" means:

A. 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 be exempted; or

B. 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.

(Ord. 92-16. Passed 11-2-92.)

(116A) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

(116B) "Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include:

A. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

B. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure; or

C. Any improvement to a structure which is considered new construction.

(Ord. 97-07. Passed 7-7-97.)

(117) "Temporary structure" means 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.

(118) "Temporary use" means a prospective use, intended for limited duration to be located in a zoning district not permitting such use, and not continuing a nonconforming use or building.

(119) "Use" means 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.

(120) "Variance" means a dispensation permitted on individual parcels of property as a method of alleviating unnecessary hardship by allowing reasonable use of a building, structure or property which, because of unusual or unique circumstances, is denied by the terms of this Zoning Code.

(121) "Wholesale establishment" means an establishment that engages in the sale of goods, merchandise and commodities for resale by the purchaser.

(122) "Yard" means an open space at grade between the edges of a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. (See Appendix A following the text of this Zoning Code.) Specifically:

A. "Front yard" means a yard extending the full width of the lot between the edge of a building and the front lot line.

B. "Rear yard" means a yard extending the full width of the lot between the edge of a building and the rear lot line.

C. "Side yard" means an open space extending from the front yard to the rear yard between the edge of a building and the nearest side lot line.

D. "Width of a yard" means the lot width of any yard which shall be measured at right angles to the lot line and to the nearest building edge.

(123) "Zero lot line" means a development approach in which a building is sited on one or more lot lines with no yard where the intention is to allow more flexibility in the site design and to increase the amount of usable open space on the lot. Typically this approach is addressed through the planned unit development procedure.

(124) "Zone" means a mapped area to which a uniform set of regulations applies or a uniform set of regulations described by a use designation, neighborhood designation, development designation and an optional special area designation.

(125) "Zoning Administrator" means the Village Manager or the Manager's designee in the capacity as enforcer of the provisions of this Zoning Code.

(126) "Zoning district" means a section of the Village designated on the Zoning Map in which requirements for the use of the land and building and development standards are prescribed.

(127) "Zoning permit" means a document issued by the Zoning Administrator authorizing buildings, structures or uses consistent with the terms of this Zoning Code and for the purpose of carrying out and enforcing its provisions.

(Ord. 92-16. Passed 11-2-92.)