

CHAPTER 1272
Conditional Uses

1272.01 Purpose.	1272.04 Standards for all conditional uses.
1272.02 Application for conditional use permits.	1272.05 Standards for specific conditional uses.
1272.03 Public hearing; action by Planning Commission and Village Council; issuance of permit.	1272.06 Permit limitations.
	1272.06 Imposition of conditions and safeguards.

CROSS REFERENCES

Municipal zoning - see Ohio R.C. 713.06 et seq.
 General provisions and definitions - see P. & Z. Ch. 1240
 Administration, enforcement and penalty - see P. & Z. Ch. 1242
 Districts generally and Zoning Map - see P. & Z. Ch. 1244
 Nonconforming structures, uses and lots - see P. & Z. Ch. 1266
 Off-street parking and loading - see P. & Z. Ch. 1268
 Home occupations - see P. & Z. Ch. 1274
 Supplementary regulations - see P. & Z. Ch. 1278

1272.01 PURPOSE.

Conditionally permitted uses typically represent more intensive or extensive land uses than are principally permitted in a given zoning district. The purpose of this chapter is to specify criteria against which to measure the proposal of a conditionally permitted development and, through such monitoring, to achieve compatible and diverse community development through a public and private project review partnership.

(Ord. 81-11. Passed 7-6-81.)

1272.02 APPLICATION FOR CONDITIONAL USE PERMITS.

An application for a conditional use permit shall contain the following information:

(a) The name, address and telephone number of the applicant and the owner of the property;

(b) A description of the property by lot, parcel and subdivision name, as shown on Greene County tax maps, and a map showing the general location of the property in the

Village;

- (c) A description of the existing use of the property;
- (d) The present zoning district of the property;

- (e) A description of the proposed conditional use;
- (f) A scale drawing showing the following as proposed or existing:
 - (1) Locations and dimensions of all buildings;
 - (2) Parking and loading areas;
 - (3) Pedestrian, bicycle and automobile circulation;
 - (4) Bicycle storage areas;
 - (5) Open spaces and landscaping;
 - (6) Refuse collection points;
 - (7) Storm drainage;
 - (8) Utilities; and
 - (9) Signs.

(g) Additional information, such as photographs or renderings, which the applicant feels will help to illustrate factors attendant to the application;

(h) A map showing land use by parcel within 100 feet of the lot lines defining the site, and a map showing significant natural features of the site, including such information as existing trees over eight inches in diameter; and

(i) Such other information as the Planning Commission may require to determine whether the proposed use meets the standards imposed by this chapter. (Ord. 81-11. Passed 7-6-81.)

1272.03 PUBLIC HEARING; ACTION BY PLANNING COMMISSION AND VILLAGE COUNCIL; ISSUANCE OF PERMIT.

(a) Six copies of an application for approval of a conditional use shall be filed with the Zoning Administrator at least two weeks before the Planning Commission's next regularly scheduled meeting. The meeting shall be advertised as a public hearing on a conditional use application. The public hearing will be conducted in accordance with the procedures outlined in Section 1242.05(g).

(b) An application for a conditional use permit, properly filed in accordance with the provisions of this chapter, shall be acted upon by the Planning Commission within thirty days of the above-mentioned public hearing. The application may be either approved as submitted, approved with supplementary conditions, or denied. Failure of the Commission to act on a conditional use application within thirty days of a legally held public hearing shall constitute automatic approval of such application by the Commission.

(c) A conditional use permit shall be issued by the Zoning Administrator before any conditionally permitted use is established. Such permit shall be issued only after:

- (1) A proper application has been filed with the Planning Commission;
- (2) Sufficient time has elapsed for action by the Planning

Commission;

(3) The Zoning Administrator has published a legal notice in a local newspaper announcing action taken by the Planning Commission on the conditional use application and announcing that aggrieved parties will have ten days during which to file an appeal of the Planning Commission action with the Village Council;

(4) Approval of a conditional use application is granted by the Planning Commission, unless such approval is appealed to Council in accordance with procedures outlined in Section 1242.05(g).

(Ord. 81-11. Passed 7-6-81.)

1272.04 STANDARDS FOR ALL CONDITIONAL USES.

In addition to specific requirements for conditionally permitted uses, as specified in this chapter and elsewhere in this Zoning Code, the Planning Commission shall find adequate evidence that the number, location, and design of points of vehicular and pedestrian access to the site shall be such as to minimize threats to traffic safety and disruption of interference of existing traffic patterns and that the use proposed at a given location:

(a) Will conform to all requirements of this Zoning Code and be in general accord with the Comprehensive Development Plan.

(b) Will be adequately served by essential public facilities and services as measured against prevailing engineering standards for similar development;

(c) Will not create excessive additional requirements at public cost for public facilities and services as measured against comparable facilities and services which would be needed to serve principally permitted uses;

(d) Will not cause a public nuisance by creating, beyond the boundaries of the subject property, objectionable amounts of light, noise, smoke, odors, fumes, vibration or traffic;

(e) Will not result in the destruction or damage of a natural or scenic feature of major importance which has been identified by either local or regional studies;

(f) Will be designed so as to avoid diversion of watercourses or excessive run-off;

(g) Will be adequately designed with respect to safety and with respect to off-premises impact, as evidenced by site development plans addressing:

(1) On-site traffic circulation;

(2) Lighting;

(3) Storm drainage;

(4) Landscaping;

(5) Ingress/egress of automobiles and pedestrians with respect to the site and existing and proposed structures;

(6) Parking; and

(7) Waste handling and storage.

(Ord. 81-11. Passed 7-6-81.)

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:

- (a) Conversions from single-family to two-family dwellings may be approved when:
 - (1) A minimum of 500 square feet of gross floor area, suitable for habitation, is provided for each dwelling unit after conversion; and
 - (2) Fire escapes or stairways leading to a second floor are located to the rear or side of the structure and not on a building wall facing any street.
(Ord. 81-11. Passed 7-6-81.)
- (b) All group homes (conditional in Residence "A," "B" and "C" Districts) shall be duly licensed and responsible to the appropriate governmental agency.
- (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. In no case shall building lot coverage exceed 5,000 square feet.
 - (4) New or additional curb cuts shall meet the following standards:
 - A. Ingress or egress driveways will be located at least twenty-five feet from the intersecting right-of-way lines of two streets;
 - B. Driveways will not exceed thirty feet in width at a point ten feet toward the property being served from a curb line;
 - C. 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;
 - D. All driveways will be perpendicular, or no more than thirty degrees from perpendicular, to the curb or right-of-way line;
 - E. 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;

F. Driveways will not be closer than fifteen feet to an adjacent property line;

- G. Engineering standards relating to minimum construction specifications shall comply with those standards adopted by the Village as part of its Subdivision Regulations.
- (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.
- (d) Churches and similar places of worship, schools, cultural buildings and other government buildings (conditional in Residence "A-1," "A," "B" and "C" Districts) may be approved if they meet the following conditions:
- (1) These uses shall have direct access to a primary or secondary or collector thoroughfare, as determined by the Village of Yellow Springs Thoroughfare Plan, and shall have no more than one access point onto any local street (if the applicant can give a reason why this will not cause a negative traffic impact on the adjacent neighborhood).
 - (2) All outdoor activity and recreational space shall be screened from adjacent residential property by an appropriate landscaped buffer of not less than four feet and not more than six feet in height.
 - (3) Parking areas shall be screened from adjacent residential property by an appropriate landscaped buffer of not less than four feet and not more than six feet in height.
 - (4) All exterior lighting shall be directed away from adjacent property and public rights of way.
 - (5) Where these uses are located in areas where the surrounding development has no parking in the front yard and structures are located close to the street, these uses shall locate parking areas to the rear of their structures.
 - (6) The development shall cause no additional drainage or runoff from the site, and all drainage and runoff shall be handled on-site.
- (e) Professional offices (conditional in Residence "B" and "C" Districts) may be approved when:
- (1) These uses may be required to have access to a thoroughfare other than a

local street, as determined by the Planning Commission.

- (2) The orientation and layout of the parking and structures on the lot shall be designed to minimize any impact upon adjoining property.
- (3) Parking areas shall be screened from adjacent residential property by an appropriate landscaped buffer of not less than four feet and not more than six feet in height.

2004 Replacement

- (4) There shall be no exterior lighting associated with this use beyond the normal residential lighting.
 - (5) Structures shall not exceed 5,000 square feet. Parking shall be provided for one car for each 300 square feet of building area.
 - (6) Locations for professional offices shall be in areas of the Village where development patterns include mixed types of residential dwellings and multifamily uses.
- (f) Boarding houses and hotels (conditional in the Residence "C" District) may be approved when:
- (1) These uses shall have access to a thoroughfare other than a local street, as determined by the Village of Yellow Springs Thoroughfare Plan.
 - (2) Appropriate locations for these structures shall be in areas of the Village where the nature of the surrounding development is either high-density residential (above six units per acre) or mixed use, commercial, institutional or educational.
 - (3) The orientation and layout of the parking and structures on the lot shall be consistent with adjoining property.
 - (4) Signs shall be limited to one sign mounted flush on the structure no more than two square feet in area and one free-standing sign not more than six feet in height and no more than three square feet in area. Signs shall not be illuminated.
 - (5) Parking areas shall be screened from adjacent residential property by an appropriate landscaped buffer of not less than four feet and not more than six feet in height.
 - (6) Uses shall not require more than fifteen parking spaces.
(Ord. 88-11. Passed 11-7-88; Ord. 92-16. Passed 11-2-92; Ord. 93-12. Passed 12-6-93; Ord. 95-5. Passed 5-1-95.)
- (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.
(Ord. 99-2. Passed 3-15-99.)

1999 Replacement

- (h) Drive-in/drive-thru facilities (conditional in Central and General Business Districts) may be approved when:
 - (1) 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.
 - (2) 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.
(Ord. 93-12. Passed 12-6-93.)
- (i) Nursing home and/or assisted living units, which are defined by the State of Ohio, in a Residence "B" or "C" District, may be approved when the following conditions have been met:
 - (1) There is a two-acre minimum lot size;
 - (2) Access to a thoroughfare other than a local street, as determined by the Planning Commission, may be required;
 - (3) There is a building setback minimum of seventy-five feet from the front property line, twenty feet for side yards and forty feet for rear yards;
 - (4) The facility should be licensed by the State, as required, based on the specific services provided;
 - (5) Any other specific design standards that the Planning Commission deems appropriate, based on the specifics of the site or the development proposal, may be applied.
(Ord. 95-5. Passed 5-1-95; Ord. 2003-9. Passed 7-7-03.)

1272.06 PERMIT LIMITATIONS.

- (a) A conditional use permit shall be deemed to authorize only one conditional use. The permit shall expire, and necessitate submission of a new application, if any of the following occurs, for any reason:
 - (1) Substantial construction of the conditional use has not begun within six calendar months from the date of granting of the conditional use by either the Planning Commission or Village Council.
 - (2) Construction of the conditional use is not completed within two years from the date of granting of the conditional use by the Board of Appeals.

(3) The conditional use shall cease for more than two years.

2004 Replacement

(b) Nothing contained in this chapter 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 and required permits have been legally granted before the enactment of this chapter, the construction of which, conforming to such plans, has been started within six months of the effective date of this section and completion thereof is carried on in a normal manner.

(Ord. 81-11. Passed 7-6-81.)

1272.07 IMPOSITION OF CONDITIONS AND SAFEGUARDS.

In granting any conditional use, the Planning Commission or Village Council may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, where made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Zoning Code and shall be cause for revocation of a conditional use permit or shall be punishable under Section 1242.99.

(Ord. 81-11. Passed 7-6-81.)

1999 Replacement