

ROCHESTER, OHIO

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Chapter 1240
General Provisions and Definitions

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CROSS REFERENCE

- Division of municipal corporations into zones – see Ohio R.C. 713.06
- Restriction in location of buildings and structures – see Ohio R.C. 713.07
- Restrictions on height of building and structures - see Ohio R.C. 713.08
- Restrictions on bulk and locations of buildings and structures, percentage of lot occupancy and set-back building lines - see Ohio R.C. 713.09
- Basis of districting or zoning; classifications of buildings and structures - see Ohio R.C. 713.10
- Administrative board; powers and duties - see Ohio R.C. 713.11
- Notice and hearing on zoning regulations - see Ohio R.C. 713.12
- Violations may be enjoined - see Ohio R.C. 713.13

1240 SHORT TITLE; INCORPORATED OF ZONING MAP.

(a) This Zoning Code shall be known and may be cited and referred to as the “Zoning Ordinance of the Village of Rochester, Ohio, “ or just the “Zoning Code.”

(b) This zoning code shall consist of the text hereof, together with a certain map identified by the approving signatures of the Mayor and the Clerk-Treasurer and marked and designated as the “Map of the Zoning Ordinance of the Village of Rochester, Lorain County, Ohio,” which Map is now on file in the office of the Clerk-Treasurer. Such a map has been examined in detail by Council and is hereby adopted as a part of this Zoning Code. This Zoning Code shall be read and interpreted in light of the contents of such Map. If any conflict between the Map and the text of this Zoning Code is deemed to arise, the text of this Zoning Code shall prevail.

1240.02 EFFECT OF ZONING CODE.

(a) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used, except for a purpose permitted in the district in which the building or land is located.

(b) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height limit established in this Zoning Code for the district in which the building is located.

(c) No building shall be erected, converted, enlarged, reconstructed, or structurally altered, except in conformity with the area regulations of the district in which the building is located.

(d) The minimum yards, parking spaces, and other open spaces, including the lot area per family, required by this Zoning Code for any building hereafter erected shall not be encroached upon or considered as parking, yard or open space requirements for any other building, nor shall any lot area be reduced below the district requirements of this Zoning Code.

(e) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one main building on one lot unless otherwise provided in this Zoning Code.

(f) No nonconforming structures or use that was erected, converted, or structurally altered, or premises used in violation of the zoning ordinance passed shall

shall be validated by the adoption of this Zoning Code and such violation or a violation or any of the provisions of the Zoning Code may be ordered removed or corrected by the proper officials at any time.

(g) No building shall be erected, converted, enlarged, reconstructed or structurally altered for a dwelling use except in conformity with the floor area regulations of the district in which it is located.

(h) During Construction: Any structure, temporary basement home or not more than one trailer or mobile home may be temporarily used as a residence on a lot while a permanent dwelling is being constructed. Such excluded use shall not be continued for more than six (6) months. A separate zoning certificate shall be required for the use of temporary dwelling quarters. Such certificate could be renewed or extended by the Zoning Inspector for six (six) months. No such certificate shall be issued unless the owner post security in the amount of not less than \$2000.00 Dollars to insure that the trailer coach, mobile home, or other temporary dwelling quarters will be removed at the end of six months or at the completion of construction of the permanent residence, whichever is earlier.

(I) SMOKE AND EMISSION: Smoke shall be controlled as much as economically possible as determined by the County Health Department or Ohio Environmental Protection Agency. Toxic emissions of any kind shall not be permitted.

(j) SOIL POLLUTION: No pollution of soil by the disposal, spreading, or storage of toxic materials including sludge shall be permitted which is harmful to health, animals, vegetation or other property. Dumping, storing, disposing, of or burning of solid wastes, hazardous wastes, toxic wastes, garbage, refuse, scrap metal, tires, rubbish, offal, or demolition materials constitute a nuisance and shall not be permitted. "Solid wastes" means materials as are described in Ohio Revised Code Section 3734.01(E) or in such statute as it may hereafter be amended. "Hazardous wastes" means materials as are described in Ohio Revised Code Section 3734.01 (J) or in such statute as it may hereafter be amended. "Demolition materials" means materials from construction operations and from demolition operations, including, but not limited to, those items that are affixed to a structure, including driveways and highways, being constructed or demolished such as brick, concrete, stone, glass, wallboard, framing, and finishing lumber, roofing materials, plumbing fixtures, wiring, and insulation materials.

1240.03 INTERPRETATIONS BY PLANNING COMMISSION;
CONFLICT OF LAWS.

(a) In interpreting and applying the provisions of this Zoning Code, the same 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 easement, covenant or other agreement between parties. However, where this Zoning Code, imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by any easement, covenant, agreement, or other ordinance, rule, regulation or permit, this Zoning Code shall govern.

(b) The Planning Commission shall:

- (1) Interpret the Zoning Code in such a way as to carry out the intent and purpose hereof; and
- (2) Rule on the proper application or interpret the meaning of this Zoning Code if a dispute arises between administrative officials of the Village of any owner of property.

1240.04 AMENDMENTS.

(a) Council, on its motion or on petition, after references to and report by the Planning Commission, and after public notice and hearing as provided in this section, may amend, supplement or change district boundaries or zoning regulations herein or subsequently established.

(b) At the direction of Council, such motion or petition shall be certified by the Clerk-Treasurer to the Commission for report and recommendation within thirty days after such certification. Failure of the commission to report within such thirty days shall be constructed as an approval of the proposed amendment, supplement or change.

(c) A public hearing shall be held by Council on all proposed amendments to or changes in the Zoning Map or the text of this Zoning Code.

(d) Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Village at least thirty days in advance of such hearing. During such thirty days, the text, or a copy of the text of the proposed ordinance or measure amending, supplementing or changing the boundaries or regulations herein established, together with the maps or plans, or copies thereof, forming part of or referred to in such ordinance or measure, and the maps, plans and reports submitted by the Commission with reference thereto, shall be on file for public examination in the office of the Clerk-Treasurer.

(e) If the proposed ordinance or measure is intended for rezoning or redistricting ten or fewer parcels of land as listed on the tax duplicate, written notice of such hearing shall be mailed by the Clerk-Treasurer, by first-class mail at least twenty days before the date of such public hearing, to the owners appearing on the current tax list of the County Auditor or on the mailing list of the County Treasurer. The failure of delivery of such notice shall not invalidate any such ordinance or measure.

(f) No ordinance or measure which differs or departs from the plan or report submitted by the Commission shall take effect unless passed or approved by not less than three-fourths of the members of Council.

(g) No action shall be taken on a petition of any amendment, supplement or change of boundaries or regulations herein established, unless and until the party proposing the same deposits with Clerk-Treasurer the sum of thirty-five (\$35.00), plus the estimated cost of any notice and publication of notices and ordinances required by law to accomplish the proposed amendment, supplement or change. Only that portion of the deposit representing the excess of the estimated cost of notices and publication, over the actual cost-thereof shall be refunded regardless of the disposition of such proposal.

(h) No property owner shall initiate a zoning amendment affecting the same parcel more often than once every twelve months.

1240.05 SEPARABILITY.

If any section, clause or provision of this Zoning Code is declared by a court to be invalid, the same shall not affect the validity of this Zoning Code as a whole or any part thereof, other than the section, clause or provision so declared to be invalid.

1240.06 DEFINITIONS.

(a) Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural and singular; the word "shall" is mandatory and not directory.

(b) Where terms are not defined in this section, they shall have their ordinarily accepted meanings or such meanings as the text may apply.

(c) In addition, as used in this Zoning Code:

(1) Accessory use or building. “Accessory use or building” means a subordinate use or building customarily incident to and located upon the same lot as the main use or building.

(2) Alley. “Alley” means a dedicated thoroughfare not more than ten feet wide where required for pedestrian use exclusively and not less than twenty feet wide where required for vehicular use.

(3) Apartment House. “Apartment house” means a building or portion thereof used or intended to be used as the home of three or more families or householders living independently of each other.

(4) Basement. “Basement” means a story partly or wholly below grade. If a basement is not occupied as living quarters, it shall not be included as a story for the purpose of height measurement.

(5) Boarding house. “Boarding house” means a building, other than a hotel, where meals are provided for five or more persons, with or without lodging.

(6) Commission. “Commission” means the Planning Commission of the Village.

(7) Dwelling. “Dwelling” means any house or building or portion thereof occupied or to be occupied in a whole or in part as the home, residence or sleeping place of one or more persons.

(8) Dwelling, multiple. “Multiple dwelling” means a building or portion thereof having three or more dwelling units and design for or occupied three or more families living independently of each other.

(9) Dwelling, single-family. “Single-family dwelling” means a building designed for or occupied by two families.

(10) Dwelling, two-family. “Two-family dwelling” means a building designed for or occupied by two families.

(11) Family. “Family” means and number of individuals living together as a single housekeeping unit and doing their cooking on the premises.

(12) Floor Area. “Floor area” means space enclosed within a dwelling used for basic living purposes, exclusive of garages, storage rooms, porches or breezeways, enclosed or unenclosed. “Floor area” shall be determined by measurement of the exterior walls of the dwelling unit.

(13) Front property line. “Front property line” means the front lot line as shown upon the official plans of the property.

(14) Front yard. “Front yard” means an open unoccupied space on the same lot, with a building between the front line of the building (exclusive of steps) and the front property line.

(15) Garage, public. "Public garage" means any premises used for the storage or housing of more than three motor-driven vehicles, or where such vehicles are repaired or kept for hire or sale.

(16) Grade. "Grade" means the curb line grade at the front lot line as established by Council.

(17) Half story. "Half story" means a story situated under a sloping roof, the floor area of which story does not exceed one-half of the floor area of the floor immediately below it and which does not contain an independent apartment. A half story shall not be counted for the purpose of determining yard dimensions.

(18) Height of building. "Height of a building" means the vertical distance at the building's principal front, measured from the established grade to the highest point of the roof. For buildings set back from the street line, the height may be measured from the average elevation of the finished grade along the front of the building.

(19) Home occupation. "Home occupation" means any occupation or activity carried on by a member of the immediate family residing on the premises, in connection with which occupation there is no sign there is no display to indicate from the outside other than as a dwelling, no commodity is sold on the premises and no mechanical equipment is used household purposes.

(20) Hotel. "Hotel" means a building occupied as the more or less temporary abiding place of individuals who pay the owner or manager for lodging, with or without meals, and in which building there are more than five guest rooms, with no provision for cooking in any individual apartment.

(21) Institution. "Institution" means a building occupied by a nonprofit organization wholly for the public use.

(22) Lodging house. "Lodging house" means a building, other than a hotel, where lodging for five or more persons is provided for compensation.

(23) Lot. "Lot" means land occupied or to be occupied by a building and its accessory buildings, including such open spaces as are required under this Zoning Code, and having frontage upon a public thoroughfare.

(24) Motel. "Motel" means a building or group of buildings designed and maintained to provide shelter and sleeping accommodations primarily for transient automobile travelers.

(25) Nonconforming use. "Nonconforming use" means a use of land or a building that does not conform to the regulations of the use district in which such land or building is located.

(26) Setback. "Setback" means the minimum horizontal distance between the street line and the front line of any building, excluding steps and unenclosed porches extending not more than ten feet beyond the front wall of the building.

(27) Story. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

(28) Structural alteration. "Structural alteration" means any change in the supporting member of a building, such as bearing walls, columns, means or girders, the addition of a structural part to a building or the removal of a structural part from a building.

(29) Structure. "Structure" means anything constructed or erected, the use of which requires a more or less permanent location on the soil or an attachment to something having a permanent location on the soil.

(30) Trailer park. "Trailer park" means a facility offering grounds or accommodations or both for house trailers or hose cars, whether occupied as dwellings or stored temporarily or permanently.

(31) Yard, rear. "Rear yard" means an open unoccupied space on the same lot with a building between the rear line of the building (exclusive of steps, porches and accessory buildings) and the rear line of the lot.

(32) Yard, side. "Side yard" means an open unoccupied space on the same lot with a building between the side wall line of the building and the side line of the same lot.

(33) Zoning Code. "Zoning Code" means Ordinance , passed Codified herein as Title Four of Part Twelve – the Planning and Zoning Code, and includes, where the text permits, any amendment thereto.