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CHAPTER 1260

General Provisions and Definitions

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CROSS REFERENCES

- Original plats - see Ohio R.C. 711.01 et seq.
- Municipal corporation may adopt general rules and regulations; violations; effective date - see Ohio R.C. 711.101 et seq.
- Vacating plats - see Ohio R.C. 711.17 et seq.
- Revision of plats - see Ohio R.C. 711.28 et seq.
- Lost or destroyed records - see Ohio R.C. 711.34 et seq.
- Administration, enforcement and penalty - see P. & Z. Ch. 1262
- Board of Zoning Appeals - see P. & Z. 1262.01(b), Ch. 1264
- Districts generally and Zoning Map - see P. & Z. Ch. 1266
- Review of subdivision applications in flood hazard areas - see B. & H. 1462.08(a)(4)

1260.01 TITLE.

This Title Six of Part Twelve of these Codified Ordinances shall be designated and known as the "Zoning Code of the Village of Brooklyn Heights."

(Ord. 73-94. Passed 10-4-94.)

1260.02 PURPOSE.

The general purpose of this Zoning Code is to promote and protect the public health, safety, peace, prosperity and general welfare of the Village as a whole by regulating the uses of land and of buildings, regulating the area and dimensions of land, yards and open spaces, regulating the bulk, height, size, design and locations of buildings, regulating the density of population to land area, regulating the intensity of a land use, and regulating building setback lines, and, for the aforesaid purposes, to divide the Village into zones or districts of such number and dimensions that discourage a pyramidal structure and are in accordance with the development objectives of the Village's Comprehensive Plan. By these regulations, it is intended to promote and protect land and building values, bring about the proper social and economic stability of neighborhoods, minimize conflicts in the uses of land and buildings, and protect and stabilize the character of a neighborhood.

(Ord. 73-94. Passed 10-4-94.)

1260.03 COMPLIANCE REQUIRED.

Hereafter in the Village, no land shall be used or occupied and no structure shall be constructed, erected, moved, repaired, structurally altered, enlarged, or leased for any purpose except as permitted by this Zoning Code and in conformity with the regulations herein established for the district in which such land or structure is located.

(Ord. 73-94. Passed 10-4-94.)

1260.04 INTERPRETATION.

In interpreting and applying the provisions of this Zoning Code, the Village officials vested with the administration of this Code shall be held to the requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Except as specifically provided herein, it is not intended by this Zoning Code to repeal, abrogate, or annul any existing provision of law or ordinance or any rule or regulation previously adopted and issued pursuant to law relating to the construction and use of buildings and premises, nor any permit, license, certificate or other authorization previously issued. It is not intended by this Zoning Code to interfere with, abrogate, or annul any private easements, covenants, agreements, or restrictions, except in cases in which this Zoning Code imposes greater restrictions upon the size or location of buildings or upon the use of land, or requires larger lots, yards, open spaces, or setback lines than are otherwise required or imposed. In such cases, the provisions of this Zoning Code shall hold.

(Ord. 73-94. Passed 10-4-94.)

1260.05 AMENDMENTS.

The text or map of this Zoning Code may be amended by the Council in accordance with the provisions of the Ohio Revised Code, or where applicable, in accordance with the "Home Rule" provision of the Constitution of the State of Ohio.

(Ord. 73-94. Passed 10-4-94.)

1260.06 SEPARABILITY.

It is hereby declared to be the legislative intent that the several provisions of this Zoning Code shall be separable, in accordance with the provisions set forth below:

- (a) If any provision of this Code is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid. Such decision shall not affect, impair, or nullify this Code as a whole or any other part thereof, and all other provisions of this Code shall continue to be separate and fully in force and effect.
- (b) If the application of any provision of this Code to any zoning lot, building, or other structure is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that zoning lot, building, or other structure immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity is rendered. Such decision shall not affect, impair or nullify this Code as a whole or the application of any provision thereof to any other zoning lot, building, or other structure.

(Ord. 73-94. Passed 10-4-94.)

1260.07 DEFINITIONS.

As used in this Zoning Code, the singular number includes the plural and the plural the singular, and all words used in the present tense include the future tense, unless the natural construction of the wording indicates otherwise. The word "shall" is mandatory and not directory and the word "may" is permissive. The phrase "used for" shall be deemed to be followed by the words "or intended, arranged, designed to be occupied or used for," and the word "and" and the word "or" may be interchangeably construed when the context so requires. The word "building" includes the word "structure." All distances refer to measurements in a horizontal plane unless otherwise clearly indicated. The phrase "this ordinance" includes all ordinances amending or supplementing the same. The word "Village" means the Village of Brooklyn Heights; the terms "Council," "the Board of Zoning Appeals," and "Planning Commission," mean, respectively, the Council, the Board of Zoning Appeals and the Planning Commission of the Village of Brooklyn Heights. The term "Zoning Map" and the word "Map" refer to the Zoning Map of the Village.

For purposes of this Zoning Code, certain words and phrases shall be defined and construed as follows:

- (a) Area of Lot. The area of a lot is the total horizontal area within lot boundary lines.
- (b) Buildings, Accessory Buildings, Main Buildings, Accessory Use Structures, Basement.
 - (1) A "building" is a structure which is permanently affixed to the land, with one or more floors and a roof, bounded by either open space or lot lines, and used as a shelter or enclosure for persons, animals, and/or property.
 - (2) The term "building" shall be used synonymously with "structure" unless otherwise noted, and shall be construed as if followed by the words "or parts thereof."
 - (3) A "main building" is the building occupied by the chief use or activity on the premises, all parts of which are connected in substantial manner by common walls or a continuous roof.
 - (4) An "accessory building" is a subordinate building detached from the main building, but located on the same lot as the main building, the use of which is customarily incident to that of the main building.
 - (5) A "structure" is that which is constructed, located more or less permanently on the ground or attached to something located on the ground, including buildings, barriers, bridges, bulkheads, fences, outdoor seating facilities, platforms, pools, poles, tanks, towers, sheds, signs and walls, and excluding tents, trailers, dining cars, and other vehicles, whether on wheels or other supports.
 - (6) A "basement" is a story or space with a floor level more than two feet below adjoining ground, and having more than half of its clear height below the adjoining ground.
- (c) Dwelling and Other Open Accommodations.
 - (1) A "dwelling unit" is space within a dwelling comprising living, dining and sleeping room or rooms, storage closets, as well as space and equipment for bathing and toilet facilities and used only by one family.
 - (2) A "dwelling" is a building designed or occupied exclusively for non-transient residential use.
 - (3) A "one-family dwelling" is a building consisting of one dwelling unit only, detached or separated from other dwelling units by open space.
 - (4) A "two-family dwelling" is a building consisting of two dwelling units which are either attached side by side or one above the other, and each unit having a separate or combined entrance.

- (5) An "apartment building" is a building comprising three or more dwelling units, arranged side by side and/or one above the other, with each unit having a separate entrance connected to a common outside entrance.
- (6) A "hotel" is a building containing ten or more rooms for living and/or living accommodations for transient occupancy and having a common entrance or entrances, and excluding cooking facilities within the rental unit.
- (7) A "motel" is a building containing a room or rooms for living and/or living accommodations for transient occupancy.
- (8) A "family" is 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, motel, hotel, fraternity, or sorority house.
- (9) A "child day-care center" and "center" is any place in which child day care or publicly funded child day care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day care or publicly funded child day care is provided for seven to twelve children at one time. In counting children for the purposes of this definition, any children under six years of age who are related to a licensee, administrator or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include a place located in and operated by a hospital, as defined in Ohio R.C. 3727.01, in which the needs of the children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Ohio R.C. Chapter 4731 or a registered nurse licensed under Ohio R.C. Chapter 4723, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness, or are injured.
- (10) A "type A family day-care home" or "type A home" is a permanent residence of the administrator in which child day care or publicly funded child day care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child day care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this definition, any children under six years of age who are related to a licensee, administrator or employee and who are on the premises of the "type A" home shall be counted. "Type A family day-care home" does not include a residence in which the needs of children are administered to if all of the children whose needs are administered to are siblings of the same immediate family and the residence is the home of the siblings.

- (11) A "group home" is a residential facility that provides room and board, personal care, habilitation services and supervision in a family setting for at least six, but not more than eight, persons with developmental disabilities as provided for in Ohio R.C. Chapter 5123.
- (d) Garages, Parking Areas, Service Stations.
- (1) A "private garage" is an accessory building or part of the main building, used for the housing of motor vehicles in which no occupation, business or service is conducted for remuneration. A carport shall be deemed a private garage.
- (2) A "storage garage" is a building, or part of the main building, other than a private garage, used for the storage of any kind of motor vehicle without maintenance service on such vehicle.
- (3) A "repair garage" is a building or part of a main building used for general repair work on motor vehicles.
- (4) A "service garage" is a repair garage accessory to a new automobile showroom.
- (5) A "sales lot" is an open area used for the display, sales, or rental of new or used motor vehicles upon which no repair work of any kind is performed.
- (6) A "service station" is the land and building, including pumps, tanks, and grease racks, used primarily for the retail sale of gasoline, lubricants, and motor vehicle accessories and for performing minor services and repairs to motor vehicle accessories and for performing minor services and repairs to motor vehicles within the building itself.
- (7) A "parking lot" is an open or enclosed area used by the public, with or without a fee, for the standing or parking of motor vehicles, no part of which is in the street.
- (8) An "accessory parking area" is an open or enclosed building used for free parking of automobiles for occupants, guests or customers of said building.
- (e) Grades.
- (1) The "natural grade" is the elevation of the undisturbed natural surface of the ground prior to any excavation or fill.
- (2) The "finish grade" is the elevation of the finished surface of the ground adjoining the building after final grading and normal settlement.
- (3) The "established street grade" is the elevation at the curb line or at the center line of the street as fixed by the Village, the County or the Ohio Department of Transportation.

(f) Lots and Lines of Lots.

- (1) A "zoning lot" is a single tract of land abutting on a duly dedicated and accepted street, occupied or intended to be occupied by a use, building, or a group of buildings and their accessory uses and buildings as a unit, together with such open spaces, parking space and loading space as required by this Zoning Code. It may or may not coincide with a lot of record.
- (2) A "lot," as used in this Zoning Code, unless the context clearly indicates to the contrary, shall have the same meaning as a zoning lot, and shall be synonymous therewith.
- (3) A "corner lot" is a lot abutting on two streets at their intersection where the interior angle of the intersection is not more than 135 degrees.
- (4) A "through lot" is a lot which has two street lines opposite each other and which are parallel, or within forty-five degrees of being parallel to each other.
- (5) An "interior lot" is a lot other than a corner lot or through lot.
- (6) "Lot line" is the boundary line separating it from adjoining public or private land.
- (7) "Front lot line" is the lot line separating an interior lot from the street upon which it abuts, or the shortest lot line of a corner lot which abuts a street, except when lot lines abutting streets are of equal length, the front lot line shall be considered on the street having the longest frontage within the same block. Front lot line is synonymous with street line.
- (8) A "rear lot line" is a lot line which is parallel to, or within forty-five degrees of being parallel to, the front lot line.
- (9) A "side lot line" is a lot line which is neither a front or a rear lot line.
- (10) "Lot width" is the required width of a lot measured at the front building setback building line established for it, or as shown on the Zoning Map.

(g) Signs.

- (1) A "sign" is a structure or part thereof, or any device attached to a structure or painted or represented on a structure, which shall display or include any letter, word, model, banner, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement.
- (2) A "business sign" is a sign which directs attention to a business, commodity, service or profession conducted, sold or offered upon the same lot, and shall not include an advertising sign or billboard.
- (3) An "advertising sign" is a sign which directs attention to a business, commodity, service or profession conducted, sold or offered elsewhere upon the same lot.

- (h) Street, Highways, Street Line. The word "street" means any duly dedicated and accepted public road or highway. The phrase "street line" is the adjacent side line of such street.
- (i) Yards.
- (1) A "yard" is that portion of an open area on a zoning lot extending between the wall of the main building and the nearest lot line, open and unobstructed from the ground upward.
 - (2) A "front yard" is the yard extending from the front wall of the main building to the side line of the street or road across the full width of the lot.
 - (3) A "rear yard" is the yard extending from the rear wall of the building to the rear lot line across the full width of the lot.
 - (4) "Side yard" is the yard extending between the side lot line and the nearest wall of the building, from the front yard to the rear yard, provided that for a corner lot, the side yard extends from the front yard to the rear lot line on the side street.
 - (5) "Required yard" is the minimum yard required between a lot line and the nearest wall of the building to comply with the regulations of the district in which the zoning lot is located. Where a yard is greater than the minimum, the excess shall be subject to the same regulations as the yard of which it is a part.
 - (6) A "buffer strip" is an open space, landscaped area, fence, wall, berm, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.
 - (7) A "landscaped area" is an area that is permanently devoted to and maintained for the growing of trees, shrubs, grass and other plant materials.
(Ord. 73-94. Passed 10-4-94.)