

ORDINANCE NO. 59-23**AN ORDINANCE AMENDING SECTION 1222.02
OF THE AVON CODIFIED ORDINANCES TO DEFINE
TERMS RELATED TO FARMING AND LIVESTOCK**

WHEREAS, the City of Avon is a chartered municipal corporation validly organized and existing under the Constitution and laws of the state of Ohio, and as such may regulate the keeping of livestock, poultry, rabbits, etc. within the City; and

WHEREAS, the regulations set forth herein reflect the City's acknowledgment that keeping livestock, poultry, rabbits, etc. within the City is, under certain conditions, is incompatible with adjoining permitted and special uses; and

WHEREAS, the current provisions of the Codified Ordinances with regard to the regulation of livestock, poultry, rabbits, etc. should be harmonized with the permitted and special uses in each zoning district set forth in the City's Planning and Zoning Code; and

WHEREAS, on April 19, 2023, by a vote of four (4) in favor and zero (0) opposed, Planning Commission recommended approval of the amendments to Section 1222.02 of the Planning and Zoning Code; and

WHEREAS, Council, on April 24, 2023, authorized a Public Hearing; and

WHEREAS, said Public Hearing was duly publicized according to law and was held on May 22, 2023 at 7:25 PM; and

WHEREAS, this Council believes that this ordinance will achieve the proper balance between these interests and that passage of same will promote the health, safety and welfare of all citizens of Avon. Furthermore, the existing property owners will not be denied any economically viable use of their property because this ordinance is intended to be prospectively applied; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 – That the provisions of Section 1222.02, entitled "Definitions" shall be amended to read as set forth in the new Section 1222.02 which is attached hereto as Exhibit "A" and incorporated herein by this reference.

Section 2 – That the Codifier is hereby instructed to insert new Section 1222.02 as contained in Exhibit A of this legislation in the appropriate order within the existing codified ordinances, renumbering and/or re-lettering anywhere applicable. All other language contained in Section 1222.02 not specifically amended herein shall remain in full force and effect.

Section 3 – That wherever the provisions of this Ordinance conflict with any other ordinance or any provision of the Codified Ordinances of the City, the provisions of this Ordinance shall control.

Section 4 – That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5 – That this Ordinance shall take effect and be in force at the earliest date allowed by law.

First Reading 4-24-23
Second Reading 5-8-23
Third Reading 5-22-23

PASSED: May 22, 2023 DATE SIGNED: May 22, 2023

By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: May 23, 2023

[Signature]
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director

ATTEST:

Barbara Brooks
Barbara Brooks, Clerk of Council

Posted: May 24, 2023
Electronically and at City Hall as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director

I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 59-23, passed by the Council of said City on May 22, 2023.

IN WITNESS WHEREOF, I have on this 23rd day of May, 2023, affixed my signature and official seal.

Barbara J. Brooks
Barbara J. Brooks, Clerk of the Council
of the City of Avon, Ohio

EXHIBIT A TO ORDINANCE NO. 59-23

1222.02 DEFINITIONS.

(a) Words used in this Planning and Zoning Code are used in their ordinary English usage.

(b) However, for the purpose of this Planning and Zoning Code, certain words herein are defined and whenever used in this Planning and Zoning Code, shall have the meaning indicated in this section, except where the context clearly indicates a different meaning.

(1) "Abandoned vehicle" Any motor vehicle or accessory to the same, licensed or unlicensed, without regard to its age or value, and which is apparently inoperable, or in such condition that it could not be legally operated, or is in an extensively damaged, dilapidated or disassembled condition. For the purposes of this definition, "vehicle" includes but is not limited to automobile, truck, jeep, van, trailer, farm equipment, aircraft and off-road vehicles.

(2) "Access drive." A paved strip which provides a vehicular connection between off-street parking spaces and a public street.

(3) "Accessory use or structure." A use or structure on the same lot with, and customarily incidental and subordinate to the principal use or structure.

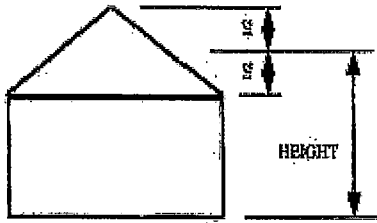
(3-A) "Animal." Any live or dead dog, canis familiaris; cat, felis cattus; monkey, non-human primate mammal; guinea pig, hamster; rabbit or any other warm-blooded animal which is a domesticated pet, or used for exhibition purposes, or is intended for use in research, testing or experimentation. "Animal" excludes livestock and poultry.

(4) "Apartment." A room or a suite of two or more rooms, in a multi-family dwelling or a commercial building which is designed or intended for, and occupied by, or to be occupied by one family doing its cooking and living therein.

(5) "Applicant." A person, corporation or other legal entity submitting an application to the City for legislative or administrative approval, including but not limited to zoning amendments, subdivision or lot splits, special uses, development plan approval, variances or appeals. The applicant shall be the owner of the property for which action is being sought or be its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

(6) "Association." A legal entity operating under recorded land agreements or contracts through which each unit owner in a development is a member and each unit is subject to charges for a proportionate share of the expenses of the organization's activities, such as maintaining common open space and other common areas, and providing services needed for the development. An association can take the form of a homeowners' association, a community association, a condominium association or other similar entity.

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(15) "Block." A tract of land bounded by streets, public or common land, railroad rights-of-way, shorelines, boundary lines, municipalities, etc., or by other definite limits and/or specified boundaries.

(15-A) "Bulk material." Material ordered, stored, issued, and sold by weight (such as bar stock or minerals), volume (such as mulch, sand, rock or gravel), or by footage (such as lumber). LPG (liquefied petroleum gas, CNG (compressed natural gas) or hazardous materials in a gaseous or liquid form, measured in volume, are not included in this definition.

(16) "Clerk." The Clerk of Council.

(16-A) "Commercial Farm." A parcel of land having a principal, special or accessory use of agriculture; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including but not limited to the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod or mushrooms; forestry and forestry products; pasturage; any combination of the foregoing; the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to such husbandry or production. The use of the land shall not include the commercial feeding of garbage to livestock.

"Commercial Farm" does not include the raising of animals for medical experimentation, commercial dog kennels and animal boarding facilities and commercial riding stables for riding academies. Generally applies where any animals are used for hire, or where fur-bearing animals are bred or raised for the sale of pelt, or meat, or where a permanent sign is erected to indicate the presence of the kennel or stable or academy.

(16-B) "Commercial farm building." A building or structure accessory to a commercial farm and primarily occupied with, activities involving the products of that farm such as propagating, growing, processing, storage, marketing, packaging for sale or distribution, shipping, wholesaling, or retailing including but not limited to a greenhouse, fruit and vegetable market, roadside stand, and similar buildings.

(17) "Commercial vehicle." Any motor vehicle licensed by the state as a commercial vehicle.

(18) "Commission." The Planning Commission.

(19) "Congregate care facility." A residential facility to provide for the needs of individuals who are elderly or handicapped and such facility shall consist of: residential dwelling units (for

Senior Independent Living and Assisted Living) and/or beds (for nursing care) designed specifically for the elderly or handicapped; common food preparation facilities with sufficient capacity to serve three (3) meals per day to the residents; a common dining room with the capacity to serve all the residents of the facility in one sitting at each meal; a common living room; common social and recreational facilities; and the provision of transportation to meet the needs of residents to such destinations as shopping, medical appointments and social, cultural and recreation facilities and events.

(19-A) A. i. "Continuing Care Retirement Community" (also referred to as "CCRC") is a Congregate Care Facility, or a campus of Congregate Care Facilities, that provides three levels of housing and care (Senior Independent Living, Assisted Living and Skilled nursing Care) for people primarily aged 62 years or over and all normal and necessary support facilities such as: recreational opportunities, personal care needs, the sale of accessory retail goods and services within the buildings.

(19-B) B. ii. "Senior Independent Living" is a Congregate Care Facility that is only permitted as a portion of a Continuing Care Retirement Community or in association with Assisted Living and when such Senior Independent Living portion of the facility is occupied by persons 62 years of age or older and the entire development is owned and operated as a single management entity.

(19-C) C. iii. "Assisted Living" is a Congregate Care Facility, or portion thereof, that provides Assisted Living Services that includes: laundry, housekeeping and at least one staff person on duty 24 hours each day.

(19-D) D. iv. "Beds (for Nursing Care) designed specifically for the elderly and handicapped" means a bed that has been counted for certification, licensure, eligibility for Medicare or Medicaid payment formulas, or other purposes related to the elderly and handicapped.

(19-E) "Coop." Any cage, structure or building where animals are bred or raised.

(20) "Council." The City Council of the City of Avon.

(21) "Covenant." A written promise or pledge.

(22) "Culvert." A transverse drain that channels under a bridge, street or driveway.

(23) "Day care." Administering to the needs of persons other than by their children, parents, guardians, custodians, or relatives for any part of the 24-hour day, in a place other than the person's own home.

(24) "Day care facility." Any place other than a family day care home in which day care for adults and/or children is provided.

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(41) "Family." One individual, any number of individuals related by blood, adoption, foster or marriage plus no more than two unrelated individuals, or not more than four unrelated individuals occupying a dwelling unit and living as a single housekeeping unit, but not including groups occupying a hotel or motel as herein defined.

(42) "Family day care home, Type B." A permanent residence of the provider in which child day care or child day care services are provided for one to six children at one time and in which no more than three children may be under two years of age at one time. In counting children for the purposes of the division, any children under six years of age who are related to the provider and who are on the premises of the Type B home shall be counted. "Type B 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 being administered to are siblings of the same immediate family and the residence is the home of the siblings.

(43) "Farm." A parcel of land having a principal, **special or accessory use** of agriculture; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including but not limited to the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod or mushrooms; forestry and forestry products; pasturage; any combination of the foregoing; the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to such husbandry or production. The use of the land shall not include the commercial feeding of garbage to livestock. "Farm" does not include the raising of animals for medical experimentation, commercial dog kennels and animal boarding facilities; and commercial riding stables for riding academies.

A. "Accessory farm building." Any building or structure accessory to a farm.

(44) "Fence." A structure or continuous barrier erected around, or by the side of, any open space to prevent passage or for protection.

(45) "Fleet vehicles." Trucks, vans, and other vehicles, including motorized equipment, which are used as part of the operation of a principal use, but not including privately-owned customer or employee vehicles.

(46) "Floor area, gross." The total number of square feet of all floor space contained within the outside surface of the exterior faces of exterior walls or from the centerline of common walls separating two buildings, but not including space in cellars or basements, space in machinery penthouses, or floor space used for accessory off-street parking. However, if the cellar or basement is used for business or commercial purposes, it shall be counted as floor area in computing off-street parking regulations.

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(54) "Highway director." The Director of the Ohio Department of Transportation.

(55) "Home for handicapped persons, family." A residential facility that provides room and board, personal care and supervision in a family setting for five to eight handicapped persons (see "Handicapped"). One to four persons, including resident staff, living in such a residential facility constitute a family for the purposes of this Planning and Zoning Code (see "Family"), and are not subject to the special use regulations for family homes. The term "family home for handicapped persons" does not include "halfway house" or other housing facilities serving as an alternative to incarceration, "nursing home," "rest home," "boarding house," "rooming house," "lodging house," "residential treatment home/center," "special care home," or any other such similar building or use of a building.

(56) "Home for handicapped persons, group." A residential facility that provides room and board, personal care and supervision in a family setting for at least nine handicapped persons. The term "group home for handicapped persons" does not include "halfway house" or other housing facilities serving as an alternative to incarceration, "nursing home," "rest home," "boarding house," "rooming house," "lodging house," "residential treatment home/center," "special care home," or any other such similar building or use of a building.

(57) "Home occupation." An occupation or business activity carried on in a dwelling unit which is subordinate and incidental to the use of the premises as a dwelling, and which is conducted only by members of the immediate family residing on the premises.

(58) "Hotel." A building containing sleeping accommodations for transient occupancy for compensation on a daily rate.

(59) "Hospital." An institution providing primary health services and medical or surgical care to persons, primarily in patients suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient or training facilities. Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanatorium and preventorium.

(59-A) "Hutch." Any cage, structure or building used for raising, breeding, keeping, lodging or feeding of *animals* or livestock.

(60) "Improvements." Street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping and other related matters normally associated with the development of raw land into building sites.

(61) "Indoor recreation." An indoor facility for any number of uses such as game courts, exercise equipment, exercise and/or dance floor area, pools, locker rooms, spa, whirlpool or hot tub, and which may include an accessory retail shop for the sale of related equipment.

(62) "Joint development." The development of two or more adjacent lots that share common facilities such as parking areas and access drives.

(63) "Junk yard." The use of more than 25 square feet of any open space land, building, or structure used to place store or dump, whether for private and/or commercial purposes, discarded or salvaged materials such as but not limited to scrap metals, used building materials, used lumber, used glass, used computers, discarded motor vehicles or parts of motor vehicles, plastic, iron, paper, rags, rubber, cordage, barrels, or other similar materials.

(63-A) "Keeping." Or "harboring" an animal, livestock or poultry includes allowing an animal, livestock or poultry to remain or be lodged or fed within a building, enclosure or yard, or maintaining such animal, livestock or poultry in one's custody or control.

(63-B) "Kennel." Any structure or building where dogs are bred, trained or boarded.

(64) "Land development." The improvement of any land, whether or not platted or subdivided, by the addition of roadways, utilities, commercial or industrial buildings or dwellings, whether or not individual dwelling units are privately-owned.

(64-A) "Livestock." Horses, ponies, stallions, colts, geldings, mares, sheep, rams, lambs, bullocks, steers, heifers, cows, calves, mules, jacks, jennys, burros, goats, kids, swine, donkeys, llamas, alpacas and any animals normally found in the wild state which are being kept for exhibition purposes or as private pets. 668.01(f)

(65) "Living fence." A natural plant species that has been planted to form a continuous barrier to prevent passage or for protection. Unless otherwise provided, a living fence shall be considered a fence for purposes of this Planning and Zoning Code.

(66) "Loading and unloading space." An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

(67) "Location map." A drawing located on the plan which sets forth, by dimensions, the relationship of the proposed subdivision or use to other nearby developments, landmarks and community facilities and services in the County and adjacent communities, in order to better locate and orient the area in question.

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(93) "Outdoor storage." The keeping, in an area outside of a building, of any goods, material, merchandise, or vehicles in the same place for more than 24 hours, except for merchandise placed in an area for outdoor display.

(94) "Parking space, off-street." 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 right-of-way.

(95) "Place of worship." A building, structure, or other indoor or outdoor facility used for public worship. The word "place of worship" includes the words "church," "chapel," "synagogue," and "temple" and their uses and activities that are customarily related.

(96) "Plat." A map, or layout of a subdivision, or lot indicating, by accurate distances and bearings, the location and boundaries of individual properties.

(96-A) "Poultry." All domesticated fowl and all game birds which are legally held in captivity.

(97) "Principal use." The use that is of primary importance or which is the predominant use on a parcel of land.

(98) "Project boundary." The boundary defining the tract of land which is included in a proposed development to meet the minimum required project area for a planned residential development or multi-family development. The term "project boundary" shall also mean "development boundary."

(99) "Public hearing." An adjudicatory proceeding at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that an application should or should not be granted.

(100) "Property line. See definition (72 81), "Lot Line."

(101) "Public notice." Advance notice of a public hearing or proceeding as prescribed in this Planning and Zoning Code, which states the subject matter to be heard and the time and place of the hearing or proceeding, sent via first-class mail with a certification of mailing to the record title holders of property immediately adjacent to, adjoining, abutting and directly across the street from the property for which the public hearing or public proceeding is to be held.

(102) "Public meeting." A meeting proceeded by notice, open to the public and at which the public may, at the discretion of the body holding the public meeting, be heard.

(103) "Public safety facility." Any structure owned and operated by a government agency for the purpose of housing safety agencies such as fire and/or police facilities and their associated offices.

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(115) "Roadside stand." A structure with no space within the structure for customers, and not intended to be a permanent fixture on the lot. Such structure shall be used for the retail sales of fresh fruits, vegetables, flowers, herbs, or plants grown on the premises. The use of such stand may also involve accessory sales of other non-processed foodstuffs and home processed food products such as jams, jellies, pickles, sauces, or baked goods. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold at a roadside stand.

(115-A) "Runways." Any area with definite boundaries and in which animals are confined.

(115-B) "Senior Housing." a residential development that is designed for senior citizens and age restricted so that at least eighty (80) percent of the units must have at least one occupant who is 55 years of age or older.

(116) "Setback line." A line established by this Planning and Zoning Code, generally parallel to and measured from the lot line, defining the limits of a yard in which no building or other structure may be located aboveground, except as may be provided in this Planning and Zoning Code.

(117) "Sidewalk." That portion of the road right-of-way outside the roadway that is improved for the use of pedestrian traffic.

(118) "Sign." Any identification, description, illustration or device which is affixed to or integrated into a building, structure or land, or otherwise situated on a lot and which is intended to direct or attract attention to, or announce or promote a product, place, activity person, institution or business by means of letters, words, designs, colors, symbols, flags, banners, fixtures, images or illuminations. Additional sign definitions are set forth in Section 1290.02.

(119) "Similar use." A use not specifically listed in any of the schedules of permitted uses of any district, but which may be found similar by the Planning Commission and added to a schedule for a particular district.

(119-A) "Stables." Any structure or building used for the keeping, lodging or feeding of livestock.

(120) "Standard detail plans." The plans showing engineering details for construction improvements.

(121) "Street." A vehicular way.