

# SECTION

## 1.0

### **AUTHORITY**

This Council finds that the Planning and Zoning Commission of the Village of Bay View has certified to the council a plan for the distributing of zoning of the municipality according to the use, height, bulk and location, setback building lines and areas of yards of buildings and other structures and the use of the premises. This Council further finds that the public health, safety, convenience, comfort, prosperity and general welfare will be promoted by the regulations and restrictions hereinafter enacted and by the division of the municipality into districts hereinafter created; which they are authorized by law to create.

# SECTION 2.0

## **DISTRICTS AND ZONING MAP**

For the purpose of regulating and restricting the location of trades, business and other uses of property, the Village of Bay View is divided into a Retail Business District No. One and Residential District No. One, all as shown on the zoning map on file with the Village and hereby declared to be a part of this ordinance and identified by the title inserted thereupon "Zone Map No. 1" of the Village of Bay View. The districts designated on said zone map are hereby declared to be a part thereof. No building shall be erected and no premises shall be used except in conformity with the regulations herein prescribed for the district in which such building is, or premises are located.

# SECTION

## 3.0

### DEFINITION

#### S

Certain words in this ordinance are defined for the purpose hereof as follows:

1. Words used in the present tense include the past, present and future tense; the singular number includes the plural and the plural the singular; the word "*lot*" includes the word "*plot*" and the word "*building*" includes the word "*structures.*"
2. "*Street line*" is the dividing line between the street right-of-way and the lot.
3. "*Street*" is also a pass, trail, drive, path, road or highway.
4. The "*building line*" is a line parallel to the front lot line at the minimum required front setback line.
5. The "*established grade*" is the elevation of the centerline of the street as fixed by the Village.
6. The "*natural grade*" is the elevation of the undisturbed natural surface of the ground adjoining the building.
7. The "*height*" for a building is the vertical distance measured from the established grade, or the natural grade, if higher than the established grade, to the highest point of the coping of the street wall for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and the ridge gable, gambrel or hip roofs houses.
8. A "*yard*" is an existing or required space on the same lot with the main

building and lying along the adjacent lot line, open and unobstructed from the ground to the sky, except as otherwise provided herein.

9. A “*front yard*” is a yard across the full width of the lot extending from the building or yard line to the street line.
10. A “*side yard*” is the yard along the side line of a lot and extending back from the front yard or lot line to the rear yard or lot line.
11. A “*rear yard*” is an open, unoccupied space on the same lot with a building, between the rear line of the building and the rear of the lot line.

12. 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 rooming house, motel or hotel, dormitory, fraternity or sorority house, provided, however, that “*family*” shall not include more than four persons unrelated to each other by blood, marriage or legal adoption, except for Class I Type B group residential facilities.
13. A “*lot*” is a parcel of land occupied or intended to be occupied by one building or the uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such building.
14. The “*depth of lot*” is the mean distance from the street line of the lot to its rear line, measured in the mean direction of the side line of the lot.
15. The “*width of lot*” is the mean distance, measured at right angles to its depth.
16. Any lot line not a front line or a rear line shall be deemed a “*side line.*”
17. A “*corner lot*” is a lot having frontage on two street lines, of which the tangents thereto intersect an included angle of not more than 120 degrees.

18. A “*single family dwelling*” or “one family dwelling” is a separate, detached building designed for and occupied exclusively as a residence for one family.
19. A “*tourist cabin*” or “*motel*” is a separate or continuous building having not less than one room and lavatory to each unit, for transient trade of one or more persons.
20. A “*house trailer*” is a structure mounted on or which was mounted on wheels, for the purpose of being occupied as a dwelling.
21. “*Nonconforming use*” is the use of a building or land existing lawfully at the time this code of ordinances or amendments thereto became effective, but which does not conform to the use regulations of the district in which it is located.
22. “*Notice*” is a written instrument or announcement delivered or mailed to the person’s address or left at his usual residence a reasonable time, not less than five (5) days before the event or action to which it refers.
23. An “*accessory*” use or building is a use or building customarily incidental to and located on the same lot with the principal building.

24. A “*private garage*” is a building or space used as an accessory to a main Zoning Permitted in a residence district and providing for the storage of motor vehicles and in which no occupation, business or service for profit carried on.
25. “*Auto service station*” is a building or buildings, structures and adjoining space used fro the dispensing of motor fuel from fixed equipment into the fuel supply tanks of motor vehicles and for the sale and dispensing into or installation on motor vehicles of lubricants and operating supplies and/or

where automotive tires, batteries, parts and accessories may be sold, installed, serviced and adjusted and where, if within a building such services as tire repairing, battery recharging, cleaning and polishing of vehicles, chassis lubrication, motor repairs and adjustments may be rendered.

26. The “*least dimension*” of a yard is the least of the horizontal dimensions of such yard. If two opposite sides of a yard are not parallel, the shorter dimensions shall be the “*least dimensions*.”

27. “*Main building*” is the building or space occupied by the chief use or activity of the premises.

28. The “*zone map*” is the map of the Village of Bay View herein adopted, attached to and made a part of this ordinance.

29. A “*bath*” is a room in a dwelling that contains not less than a tub or shower, wash stand and flush toilet, all connected to a water supply and sewer system.

30. A “*kitchen*” is a room that contains a standard sink connected to a water and sewer system.

31. A “*lavatory*” is a room that contains not less than a wash stand and flush type toilet connected to a water supply and sewer system.

32. A “*recreation vehicle*” means a vehicular portable structure built on a chassis and designed as a temporary dwelling for travel, recreational and vacation uses. This definition does not include a house trailer as defined in subsection 20 of this section.

33. “*Variance*” is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary or undue hardship. The establishment of a use otherwise prohibited shall not be allowed by a variance, nor shall a variance be

granted because of the presence of nonconformities in the zoning districts or adjoining zoning districts.

34. *“Use, Conditional”* means a use permitted within a certain zoning district, such a nature that the village has reserved the right to approve its exact location, subject to such conditions as are stated in this Zoning Ordinance and to any special conditions imposed by the Planning and Zoning Commission to protect other uses and properties in the neighborhood.
35. *“Child daycare center”* is any place in which child daycare is provided, with or without compensation, for thirteen or more children at any one time, or any place that is not the permanent residence of the licensee or administrator in which child daycare is provided, with or without compensation for seven to twelve children at any 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 shall be counted.
36. *“Type A family daycare home”* is a permanent residence of the administrator in which child daycare is provided for four to twelve children at any one time, if four or more children are under two years of age. In counting children for the purpose 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. The term *“Type A family daycare home”* does not include a residence in which the needs of children are administered to, if all such children are siblings of the same immediate family and the residence is their home.
37. *“Type B family daycare home”* is a permanent residence of the provider in which child daycare or child daycare 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 any one time. In counting children for the purposes of this definition, any children under six years of age who are related to the provider and are on the premises of the Type B home shall be counted. The term *“Type B family daycare home”* does not include a residence in which the needs of children are administered to, if all such children are siblings of the same immediate family and the residence is their home.



38. The “setback” is the distance from the lot line, (as determined by the metes and bounds description as contained in the deed for the property), to the point where a building or structure may be erected.

39. Canopy: A structure constructed of rigid materials including, but not limited to, metal, wood, concrete, plastic, canvas or glass which is attached to and supported by a building or by columns, poles or braces extended to the ground.

# SECTION 4.0

## **RESIDENTIAL DISTRICT NO. ONE**

### **4.1 Purpose**

The purpose of this district is to provide a single family residential development in the central area of the Village of Bay View. This district is established in the recognition of the existing development in the above noted area.

### **4.2 Principal Permitted Uses**

In the R-1 district, no person shall hereafter use any land, building or structure and no person shall erect any building or structure except in accordance with the following provisions:

1. Single family dwellings.
2. Publicly owned and operated schools, libraries, parks, parkways and recreation facilities.
3. Type B family day care home.
4. Accessory uses customarily incidental to the above permitted uses.

### **4.3 Development Standards**

1. Minimum lot area: 8,000 square feet. 2. Minimum frontage (on a street): 100 feet. 3. Minimum front yard setback: 15 feet 4. Minimum side yard setback (each side): 5 feet. 5. Minimum rear yard setback: 15 feet. 6. Minimum setback for corner lots (both streets): 15 feet. 7. Maximum height: 36 feet. 8. Minimum floor area: 1,000 square feet.

### **4.4 Required Parking**

As specified in section 8.

### **4.5 Signs**

1. One non-illuminated sign advertising the sale or lease of the lot or building not exceeding six square feet in area on any one lot. 2. Signs appropriate to a public or quasi-public building for the purpose of displaying the name and activities of services therein, provided not larger than a total of twelve square feet and restricted to the premises.

3. Signs incidental to legal process and necessary to the public welfare.

### **4.6 Accessory Structure**

1. No accessory structure shall exceed the square footage of the first floor of the main dwelling.
2. Except as otherwise provided herein, no accessory building or structure, or use shall be erected or carried on in the required front yard.
3. A detached private garage or other accessory structure may be erected and used in the interior side or rear yard provided that:

- a. When such accessory structure is located in the rear yard, a minimum side and rear yard of five feet shall be maintained. b. In no case shall an accessory structure be located closer than fifteen feet to any street line or alley.
4. An accessory building shall be a minimum distance of ten feet from any main building.
5. No accessory structure shall be used for human habitation.
6. No accessory structure shall be used for commercial or industrial purposes.
7. Accessory structures shall not cover more than thirty-five percent (35%) of the required rear yard.
8. Accessory structures must be subordinate in area to the principal use.
9. The maximum height of any accessory structure shall be twenty feet.
10. No more than two accessory buildings on less than one acre.
11. A private garage permitted as an accessory use shall not provide storage for more than three motor vehicles.

#### **4.7 Conditionally Permitted Uses**

The following uses may be permitted as conditional uses with approval of the Planning and Zoning Commission pursuant to section 12 (6).

##### **1. Church**

- a. The lot area shall be adequate to accommodate the required off-street parking requirements of the intended use.

b. The buildings and parking areas shall be set back an adequate distance to allow for screening and buffering from any adjacent residential property line.

## 2. Bed and Breakfast

A private owner-occupied residence with one to three guest rooms. The bed and breakfast must be subordinate and incidental to the main residential use of the building.

Standards that apply to bed and breakfast or tourist homes are as follows:

a. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character, shall be permitted. b. All floors above grade shall have direct means of escape to ground level. c. One (1) off-street parking space shall be provided for each room available for rent, in addition to those required for the dwelling unit. d. All parking areas shall be set back a minimum of twenty-five (25) feet from all property lines. e. One sign shall be permitted not exceeding two (2) square feet in area and three and one-half (3 1/2) feet above ground. f. Length of stay shall not exceed fourteen (14) days.

3. Private swimming pools pursuant to section 12 (6) and section 6.15.

## **4.8 Home Occupation as a Conditionally Permitted Use**

A home occupation shall be a conditionally permitted use if it complies with the following requirements:

1. The external appearance of the structure in which the use is conducted shall not be altered and not more than one sign no larger than two (2) square feet, shall be mounted flush to a wall of the structure.

2. No internal or external alterations, construction or reconstruction of the premises to accommodate the use shall be permitted.

3. There shall be no outside storage of any kind related to the use and only commodities produced on the premises may be sold on the premises; no display of products may be visible from the street.

4. Not more than twenty-five percent (25%) of the gross floor area of the dwelling shall be devoted to the use.

5. No equipment, process, materials or chemicals shall be used which create offensive noise, vibration, smoke, dust, odor, heat, glare, x-rays, radiation or electrical disturbances.
6. No additional parking demand shall be created.
7. No person who is not a resident of the premises may participate in the home occupation as an employee or volunteer.

# SECTION

# 5.0

## **RETAIL BUSINESS DISTRICT NO. ONE**

### **5.1 Statement of Purpose**

The retail business district is intended for retail business and service uses which are needed to serve the nearby residential area and the motoring public. The intent of this district is also to encourage the concentration of local business areas to the mutual advantage of both the consumers and merchants and thereby promote the best use of land at certain strategic locations.

### **5.2 Principal Permitted Uses**

In a retail business district, no person shall hereafter use any building, structure or land and no person shall erect any building or structure except in accordance with the following provisions:

1. Taverns, sale of legal beverages, restaurants, music and dancing, grocery stores and general items, boat rental and sales, bait stores, fishing tackle and other sporting goods, outboard and inboard motor sales and repair, travel trailer sales and repairs, service garage, repair garage, service station, ice cream stand, barber and beauty shops, hardware store, medical, dental and veterinary clinics, parking lots and other retail stores.
2. Public buildings and uses.
3. Hotels and motels.
4. Clubs, lodges, social or recreational buildings.
5. Offices or financial services.
6. Accessory structures and uses customarily incidental to the above permitted uses

### **5.3 Development Standards**

1. Minimum lot area: 8,000 square feet.
2. Minimum frontage (on a street): 100 feet.
3. Minimum front yard setback: 15 feet.
4. Minimum side yard setback (each side)
  - Adjacent to commercial district: 5 feet
  - Adjacent to residential district: 12 feet

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5. Minimum rear yard setback: 15 feet.
6. Minimum setback for corner lots (both streets): 15 feet.
7. Maximum height: 36 feet.
8. All property within retail business district number one may be used for business purposes herein permitted only if such land fronts upon Martins Point Road or East Bay View Drive, said owner may extend his business or a related business to contiguous lots to the side and rear thereof, but all within retail business district number one.

### **5.4 Required Parking**

As specified in section 8.

### **5.5 Signs**

Signs permitted in retail business districts

The regulations set forth in this section shall apply to signs in the commercial district.

1. Signs are permitted which relate to the business conducted on the premises. Advertising signs are permitted only with prior permission of the Zoning Commission. Signs which hang over a sidewalk or public right-of-way shall not be permitted.

### **5.6 Site and Landscape Plan Review**



For all uses permitted in the retail business district, a site plan shall be submitted to the Planning Commission for its review and recommendations. The Commission in its review of the site plan shall have regard to the provisions of this ordinance. The Commission may require certain modifications in terms of the location of buildings, parking and driveways and may require screening/landscaping techniques to alleviate potential nuisance problems with adjoining districts of uses or to lessen the transmission of noise from the public street system.

## **5.7 Screening/Buffering**

To assist in the prevention of the transmission of light and noise from within the retail business district into abutting residential district, screening may be required where such district abuts or is contiguous to any residential district, without an intervening alley or other public way. Such screening shall be provided within the retail business district, but not within a public street or alley, along the entire contiguity of said districts. Screening may be of opaque or translucent materials resistant to deterioration by natural causes, or it may be of such plant materials as will provide a year-round evergreen screening. Screening as provided herein, shall not be less than six (6) feet in height, shall be provided from the grade of the property upward and shall be permanently maintained.

# SECTION 6.0

## **SUPPLEMENTARY DISTRICT REGULATIONS**

### **6.1 General**

The purpose of supplementary district regulations is to set specific conditions for various uses, classifications of uses or areas wherein problems may occur, in order to alleviate or preclude such problems and to promote the harmonious exercise of property rights without conflict. These supplementary district regulations are, however, nonetheless intended to recognize as valid those uses of land currently in existence that were lawful when such uses commenced.

### **6.2 Principal Building Per Residential District**

No more than one principal building or structure may be constructed upon any one lot for the purposes of this ordinance. Rear dwellings shall be prohibited.

### **6.3 Reduction of Area or Space**

No lot, yard, parking area or other space shall be reduced in area or dimension if such reduction has the affect of making the lot, yard, parking area or other space less than the minimum required by this resolution. Furthermore, any lot, yard, parking area or other space which is already less than the required minimum shall not be reduced further. However, nothing in this section shall be interpreted to limit the power of the Planning and Zoning Commission in approving a request for a split of a platted lot.

### **6.4 Construction in Easements**

Easements for installation, operation and maintenance of utilities and drainage facilities are reserved as shown on each plat when recorded or otherwise established. Within these easements, no permanent building or structure shall be placed or permitted which may damage or which may interfere with the installation, operation and maintenance of such utilities or which may change the normal direction of flow of drainage channels within the easement. The easement area of each lot and any improvements within it, shall be maintained continuously by the owner of the lot, except for those improvements for which a

public authority or a utility is responsible.

## **6.5 Prohibited Uses for Mobile Homes**

Individual mobile homes shall be prohibited in all districts. A permit may be issued by the zoning inspector for a period not to exceed one (1) year to a company for the use of a trailer as a field office. Those permits may be extended at the discretion of the building inspector.

## **6.6 Parking and Storage of Vehicles and Trailers in Residential Districts**

Truck tractors, trucks over 1 1/2 tons, buses, semi-trailers, shall not be parked or stored on any property within a residential district other than in a completely enclosed building, except those commercial vehicles conveying the necessary tools, materials and equipment to a premises where labor using such tools, materials and equipment is to be performed during the actual time of parking. No automotive vehicles or trailers of any type without current license plates shall be parked or stored on any residential property other than in a completely enclosed building.

In a residential district, no junk vehicles, autos, mechanical equipment and building material shall be left or stored in a public place or subject to public access or view for longer than necessary and such storage thereof for longer than ten (10) days shall be deemed unreasonable and unlawful.

In a residential district, any motor vehicle that is not properly registered pursuant to a state motor vehicle licensing law shall not be left or stored in a public place or subject to public access or view for longer than necessary and such storage thereof for longer than thirty (30) days shall be deemed unnecessary and unlawful. This provision shall not apply to any authorized driver safety campaign or other proper activity.

No person shall park or store a travel trailer or motor home on any lot or lots located in a residential district unless one of the following two conditions are met:

a. The parking of said travel trailer is a casual transient overnight parking or; b. The owner of said parked or stored travel trailer is the owner or lessees of the lot or lots upon which said trailer is so parked or stored and such owner or lessee resides on such lot or lots, adjacent lots or a lot that is immediately across the street upon which said trailer is to be parked or stored.

Travel trailers, tool trailers, enclosed trailers, buses or motor homes shall at no time be used as a dwelling; an accessory building or a private garage. Travel trailers or motor homes shall at no time be connected to any public utility suppliers or outlets or to any other apparatus supplying any household facilities.

In any residential or retail business district, the accumulation or storage of junk, junk vehicles, disabled or inoperative machinery or equipment, vehicles or machinery parts, rags or any other discarded objects or debris defined as “junk” by the Ohio Revised Code shall be prohibited, outside an approved junk yard or designated impound lot, in order to protect residents from conditions conducive to the infestation and breeding of vermin, insects and rodents.

### **6.7 Main or Accessory Buildings**

No main or accessory building in any district shall be used for the purpose of housing any wild animals or poultry.

### **6.8 Driveways**

Driveways shall be constructed on the side of the lot where the majority of the drives are located on the same street or upon the side designated by the Zoning Commission.

### **6.9 Subdivision of Lots**

No lot or subplot of record may be divided into smaller parcels without the approval of the Planning and Zoning Commission of the Village of Bay View.

### **6.10 Lot Area**

No main building (and its accessory building) shall be built on a building site of less than 8,000 square feet. Each such site shall have a minimum of 100 foot of frontage on at least one street. All sanitary sewer and drainage systems for said building(s) shall be located entirely on one individual site and such systems shall otherwise comply with the Erie County Health Department sewer regulations.

### **6.11 Access**

No person shall erect any building or structure on a lot or use any lot in any zone unless such lot has frontage on a duly dedicated, improved and accepted public street.

### **6.12 Access to Public Roads**

The Planning and Zoning Commission in the granting of any variance or the approval of any site plan has the authority to impose any or all of the following provisions upon the access to any public roads or streets which abut the property:

- a. The location, width, radius and number of all driveways entering into any public road;
- b. A requirement that barriers be installed and maintained to prevent ingress or egress from a public street or road at locations other than designated driveways;
- c. A limitation upon ingress or egress from certain public streets or roads where the property abuts more than one street or road;

- d. A requirement that culverts be placed parallel to the road right-of-way so as to not interfere with the existing flow of surface water. The size of the culvert shall be based upon accepted engineering standards;
- e. A limitation upon the direction which traffic exiting the property may turn onto the public street or road.

### **6.13 Exceptions to Height Regulations**

The height limitations contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy, except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport.

### **6.14 Architectural Projections**

Open structures such as porches, canopies, balconies, platforms, carports, covered patios and similar architectural projections shall be considered parts of the building to which attached and shall not project into the required minimum front, side or rear yard.

### **6.15 Private Swimming Pools**

No private swimming pool, exclusive of portable swimming pools with a diameter of less than twelve (12) feet or with an area of less than one hundred (100) square feet, shall be allowed in any residential district or retail business district, except as a conditionally permitted use and shall comply with the following requirements:

1. The pool is intended to be used and is used solely for the enjoyment of the occupants of the property on which it is located and their guests;
2. The pool must be located in the rear yard or side yard and shall not be located closer than six (6) feet to any property line or easement;

3. The swimming pool shall be walled or fenced in such a manner as to prevent uncontrolled access by children from the street and from adjacent properties. No such fence shall be less than six (6) feet in height, measured from the adjacent grade, and it shall be maintained in good condition with a gate and lock.

### **6.16 Single Family Design and Appearance Standards**

Single family residential homes, whether modular, manufactured or site built construction, shall comply with the following design and appearance standards:

1. The structure and any accessory structures or uses will conform to all other regulations in effect for the district in which it is located. 2. The minimum floor area for every dwelling located on a lot in any zoning district shall be one thousand (1,000) square feet, excluding the area for basements, porches, attached garages or utility rooms. 3. The minimum width of a dwelling shall be twenty (20) feet. 4. Manufactured homes must have a state certification number from the Ohio

Board of Building Standards to ensure compliance with the Ohio Building Code.

### **6.17 Zoning of Factory Built Housing**

Mobile homes shall not be permitted in any district. Manufactured homes and modular homes which meet the design and appearance standards contained in this section shall be permitted.

### **6.18 Fences, Walls and Other Protective Barriers**

#### **1. General**

a. The erection, construction or alteration of any fence, wall or other type of protective barrier shall be approved by the building inspector as to their conforming to the requirement of the zoning district wherein they are required because of land use development and to the requirements of this section.

b. No fence, wall, structure or planting shall be erected, established or



maintained on any corner lot which will obstruct the view of a drive or a vehicle approaching the intersection, excepting that shade trees would be permitted where all branches are not less than eight (8) feet above the road level. Such unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines

extended. This shall not prohibit the establishment of shrubbery thirty-six (36) inches or less in height.

- c. All fences and walls shall not be less than six (6) inches from any side, rear or front street line.

## 2. Residential

- a. Side and Rear Fences:

Fences constructed within a side yard shall not be higher than four (4) feet, except that side yard fences within fifteen (15) foot of a road right-of-way shall not be higher than three (3) feet. Fences along a rear yard shall not be higher than six (6) feet, except as provided herein.

- b. Planting, Fences and Walls in Front Yard:

No fence, wall or hedge shall rise over three (3) feet in height on any required front yard. No fence, wall or hedge planting shall interfere with visibility from a driveway.

- c. In through lots (where the lot fronts on two or more streets) for the purpose of this ordinance, the lot is considered to have a front yard on each street and no planting, fences or walls shall rise over three (3) feet in height on the required front yard.

- d. Fences on lots of record shall not contain barbed wire, electric current or charge of electricity.

e. Fences shall be of sturdy construction of uniform design, painted and/or otherwise well maintained.

### 3. Retail Business District

a. Fences in retail business district shall be limited to a height of eight (8) feet and be of sturdy construction, of uniform design, painted and/or otherwise well maintained.

b. Fences in a retail business district shall be set back at least twenty-five (25) feet from the road right-of-way. c. The use of barbed wire on fences in a commercial district shall require approval of the Planning and Zoning Commission and the following conditions shall be met:

1. Barbed wire may be used on a security fencing, but shall be limited to three (3) strands.
2. Barbed wire shall not project beyond the property line.
3. Barbed wire shall not be used less than eight (8) feet from grade.

## **6.19 Screening/Buffering**

A landscaping area may be required to screen and protect neighboring properties and passing motorists from the view of facilities, buildings and parking areas of the site development, as warranted. Landscaped areas are subject to the following:

1. Screening shall be provided for one or more of the following purposes:
  - a. A visual barrier to partially or completely obstruct the view of structures or activities.
  - b. An acoustic screen to aid in absorbing or deflecting noise.
  - c. A physical barrier to contain debris and litter.
2. Screening may consist of one of the following, or a combination of two or more, as determined by the Planning and Zoning Commission:
  - a. A solid masonry wall;
  - b. A solidly

constructed decorative fence; c. A louvered fence; d. A dense vegetative planting; e. A landscaped mounding.

3. Height of screening shall be in accordance with the following:

a. Visual screening walls, fences, plantings or mounds shall be a minimum of 5 1/2 feet high in order to accomplish the desired screening effect, except in required front yards where maximum height shall be not greater than three (3) feet. Plantings shall be a minimum of four (4) feet in height at the time of planting. b. A dense vegetative planting with a minimum height of four (4) feet at

planting and a mature height of at least 5 1/2 feet or greater, or a solidly constructed decorative fence, shall be permanently maintained along the mutual boundary of an accessory parking area and adjacent land zoned for residential uses, except for the portion of such boundary located within a required front yard.

4. Screening for purposes of absorbing or deflecting noise shall have a depth of at least twenty-five (25) feet of dense planting or a solid masonry wall in combination with decorative plantings. The height shall be adequate to absorb noise as determined by the applicant in relation to the nature of the use. Additional screening shall be required if the initial screening is found to be inadequate.

5. Whenever required screening is adjacent to parking area or driveways, such screening shall be protected by bumper blocks, posts or curbing to avoid damage by vehicles.

6. All screening shall be trimmed, maintained in good condition and free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles.

# SECTION

# 7.0

## **NONCONFORMITIES**

### **7.1 Purpose**

Within the districts established by this Ordinance, or by amendments thereto which may later be adopted, lots, uses of land, structures and uses of structures and land in combination exist which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance. The legitimate interest of those who lawfully established these nonconformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension and substitution. Furthermore, nothing contained in this Ordinance shall be construed to require any change in the layout, plans, construction, size or use of any lot, structure or structure and land in combination, for which a zoning permit became effective prior to the effective date of this Ordinance, or any amendment thereto. Nevertheless, while it is the intent of this Ordinance that such nonconformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, expanded or used as grounds for any other use(s) or structure(s) prohibited elsewhere in the district without the approval of the Planning and Zoning Commission, except as otherwise specifically provided for in this Ordinance.

### **7.2 Completion of Nonconforming Structures**

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently.

### **7.3 Substitution of Nonconforming Uses**

A nonconforming use of a building may be changed to another nonconforming use of the same or of a more restrictive classification, provided no structural alterations are made other than those ordered by an authorized public officer to assure the safety of the building or structure and provided further than such

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extension does not displace any residential use in a residential district established by this Ordinance. Wherever a nonconforming use of a building has been changed to a more restricted use or to conforming use, such use shall not thereafter be changed to a less restricted use.

### **7.4 Discontinuance of a Nonconforming Use**

Whenever a nonconforming use of a building or portion thereof has been discontinued for a period of two years, such nonconforming use shall not thereafter be reestablished and the future use shall be in conformity with the provisions of this Ordinance.

# SECTION 8.0

## **PARKIN**

### **G**

#### 1. Intent:

Off-street parking and loading requirements and regulations are established in order to achieve, among others, the following purposes:

- a. To relieve congestion on the streets, so that they can be utilized more fully of traffic; and b. To promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen auto movements in areas of automobile and pedestrian congestion; and c. To protect neighborhoods from vehicular traffic congestion in adjacent non-residential districts of intense auto concentration; and d. To promote the general convenience, welfare and prosperity of residential and business developments, which depend upon off-street parking facilities.

#### 2. Accessory parking facilities required:

Accessory off-street parking facilities (including access driveways) shall be provided in accordance with the following schedule as a condition precedent to occupancy of a residential or business use.

- a. Whenever a new building is constructed or a new use established.
- b. Whenever an existing building is altered and there is an increase in the number of dwelling units, seating capacity and/or floor area.

### **8.1 Schedule of Required Parking Spaces**

For the purposes of this Ordinance, the following parking space requirements shall apply and the number of parking spaces required for uses not specifically mentioned shall be determined by the Planning and Zoning Commission.



**RESIDENTIAL USES TYPE OF USE**

MINIMUM OF SPACES FOR EACH USE Single family Two for each unit

**RETAIL BUSINESS TYPE OF USE**

MINIMUM OF SPACES FOR EACH USE

Animal hospitals and kennels

One for each four hundred (400) square feet of floor area and one for each two employees

Auto service station

One for each four hundred (400) square feet of floor area and one for each employee

Car washing facilities One for each employee Banks, financial institutions, post offices and similar uses

One for each two hundred fifty (250) square feet of floor area and one for each employee Barber and beauty shops Three (3) for each barber or beauty

operator

Carryout restaurants

One for each two hundred (200) square feet or floor area and one for each two employees

Drive-in restaurants

One for each one hundred twenty-five (125) square feet of floor area and one per each employee Hotels and motels One for each sleeping room plus one

space for each two employees Boarding, rooming, tourist, bed and breakfast

One for each sleeping room

Laundromats One for every two (2) washing machines Administrative, business and professional office uses

One for each two hundred (200) square feet of floor area Sit down restaurants, taverns, night clubs and similar uses

One for each three persons of capacity

Retail stores One for each one hundred fifty (150) square feet of floor area

All other types of business or commercial uses permitted in any commercial district – one for each one hundred fifty (150) square feet of floor area.

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## **8.2 Continuation of Parking Facilities**

All existing off-street parking facilities or those required as accessory to a use of a proposed or altered building shall continue unobstructed in operation; shall not be used for automobile service or repair and shall not be reduced below the required size as long as the main use remains, unless an equivalent number of spaces is provided for said use in another approved location.

## **8.3 Measurement Standards**

For the purpose of determining accessory off-street parking requirements, definitions and standards shall be as follows:

### **a. Accessory parking space:**

An open or enclosed area accessible from a street for parking of motor vehicles of owners, occupants, employees, customers or tenants of the main building. Except for “attendant” parking lots and areas for one and two-family dwellings, each space shall be not less than 180 square feet (9 ft. x 20 ft.) exclusive of all drives and turning space and determined from an accurate plan of the area.

### **b. Floor area:**

The total area of all the floors, measured from the exterior faces of the building (except the floor or part thereof used for the storage or packaging or merchandise may be excluded if permission is first obtained from the Zoning Commission) or where set forth in the following schedule, only the floor area used by a specific use.

### **c. Seat:**

The number of seating units installed or indicated or each twenty-four (24) lineal inches of benches or space for loose chairs or similar seating facilities; spacing

of rows shall be assumed at thirty (30) inches on center.

d. Employees:

The maximum number of employees on any two successive shifts.

e. Fractional unit:

Where the computation results in a fractional unit, one additional off-street parking space shall be provided.

## **8.4 Location of Parking Facilities**

a. Residential uses:

Enclosed or open parking facilities shall be located on the same lot as dwelling served.

b. Institutional, amusement and assembly uses:

Accessory parking facilities shall be provided on the same lot as the institution or place of amusement or assembly served; however, where no such adjacent land is available, the nearest point of the parking lot shall be located within a walking distance of three hundred (300) feet of the entrance to said building.

c. Business uses:

Accessory parking facilities shall be located on the same lot or adjacent to the business served in the business district.

## **8.5 Accessways to Parking Areas**

The location and width of entrance and exit driveways to accessory parking facilities (except for one and two family dwellings) shall be planned in such a manner as to interfere as little as possible with the use of adjacent streets. The

centerline of an access drive to parking areas have ten (10) or more spaces shall not be less than thirty-five (35) feet from a street intersection right-of-way line. Parking areas of twenty-four (24) spaces or less shall have a driveway not less than ten (10) feet wide. Those having twenty-five (25) or more spaces shall have one or two driveways not less than a total width of twenty (20) feet. The aforesaid location and width regulations shall also apply to driveways for “drive in” roadside business.

### **8.6 Surface Improvements of Parking Areas**

All parking areas and access driveways shall have a smoothly graded, stabilized and dustless surface with adequate drainage so that injury will not be caused to adjacent properties, nor will water drain across a public walk.

### **8.7 Illumination of Parking Areas**

Parking areas shall be adequately illuminated whenever necessary to protect the public safety. Such illumination shall be so designed and located that light sources are shielded from adjoining residential districts and streets and shall not be of excessive brightness or cause a glare hazardous to pedestrians or motor vehicle drivers.

### **8.8 Approval**

Detailed drawings of off-street parking areas, except for one family dwelling and/or loading facilities shall be submitted for the Planning and Zoning Commission’s approval before an application for a Zoning Permit can be approved. Such drawings shall show the number of spaces and the location, dimensions and descriptions of all features enumerated in the foregoing sections. The Planning and Zoning Commission may require structural or landscape features, such as bumper guards, curbs, walls, fences, shrubs, ground cover or hedges to further the purpose of this Ordinance.

# SECTION 9.0

# **ADMINISTRATIO N**

## **9.1 Purpose**

This section sets forth the powers and duties of the Zoning Inspector, Planning and Zoning Commission and Village Council with respect to the administration of the provisions of this Ordinance.

## **9.2 General Provisions**

The formulation, administration and enforcement of this Zoning Ordinance is hereby vested in the following offices and bodies within the Village.

1. Zoning Inspector
2. Planning and Zoning Commission
3. Village Council

## **9.3 Zoning Inspector**

A Zoning Inspector designed by the Mayor and approved by the Village Council shall administer and enforce this Ordinance. He may be provided with the assistance of such other persons as the Village may direct.

## **9.4 Responsibilities of Zoning Inspector**

For the purpose of this Ordinance, the Zoning Inspector shall have the following duties:

1. Enforce the provisions of this Ordinance and interpret the meaning and application of its provisions.
2. Respond to questions concerning applications for amendments to the Zoning Ordinance text and the Official Zoning District Map.
3. Issue Zoning Permits as provided by this Ordinance and keep a record of

same with a notation of any special conditions involved.

4. Act on all applications upon which he is authorized to act by the provisions of this Ordinance within the specified time or notify the applicant in writing of his refusal or disapproval of such application and the reasons therefore. Failure to notify the applicant in case of such refusal or disapproval within the specified time shall entitle the applicant to submit his request to the Planning and Zoning Commission.
5. Conduct inspections of buildings and uses of land to determine compliance with this Ordinance and in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.
6. Maintain in current status the Official Zoning District Map which shall be kept on permanent display in the Village offices.
7. Maintain permanent and current records required by this Ordinance, including but not limited to, zoning permits, inspection documents and records of all variances, list of all nonconforming uses, amendments and special uses.
8. Make such records available for the use of the Village Council and the Planning and Zoning Commission.
9. Review and approve plot plans pursuant to this Ordinance.
10. Determine the existence of any violations of this Ordinance and cause such notifications, revocation notices or stop orders to be issued or initiate such other administrative or legal action as needed to address such violations.

## **9.5 Planning and Zoning Commission**

Shall consist of the Mayor and one Councilman, both of whom shall serve until the end of their respective terms of office and of three citizens of the community appointed by the Mayor and approved by the Village Council. For the first term, one citizen shall serve for a two year period, one for a four year period and one for a six year period. Thereafter, they shall each serve for a six year appointive term. All such members shall serve without compensation. The Commission shall have all the power and authority conferred upon the Planning and Zoning Commission by the state law and such other duties as may be imposed upon it by the Village Council.

Planning and Zoning Commission cannot replace council. Nothing in this Zoning Ordinance shall give the Planning and Zoning Commission the power to act for Council in its legislative matters.

### **1. Chairman and Secretary**

The board shall elect a Chairman and a Secretary. The Secretary shall not be a member of the Board. The Chairman of the Planning and Zoning Commission or in his absence the Vice-Chairman, may administer oaths and compel attendance of witnesses and the production of books, papers or other evidence pertinent to any issue before the Commission.

### **2. Meetings**

Regular meetings of the Commission shall be held at least once each month and at such other times as the Commission may determine, or upon call of the Chairman. All such meetings shall be open to the public. The Commission shall adopt its own rules procedure and shall keep a record of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote, indicating such facts; and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Commission shall immediately be filed in the Office of the Commission and shall become a public



record.

## **9.6 Quorum and Vote**

A quorum of the Planning and Zoning Commission shall consist of three members and the concurring vote of the three members of the Commission shall be necessary to reverse any order, requirement, decision or determination of any duly authorized administration official. A member of the Commission shall not be qualified to vote if he has not attended the public hearing or if he has a direct or indirect interest in the issue appealed.

## **9.7 Decisions of Commission**

Within a reasonable time of its action on an appeal or application, the Clerk of the Commission shall mail, by regular mail, a copy of its decision to the appellant and to each interested party. Special conditions that may be prescribed by the Commission in its decision shall be incorporated by the Zoning Inspector and should be on any Zoning Permit issued subsequently in accordance with the decision.

## **9.8 Appeals From Decisions of the Commission**

Appeals from decisions of Planning and Zoning Commission. A person aggrieved by a decision of said Commission may, within thirty (30) days after the filing of such decision, appeal to the Village Council.

The Village Solicitor of the Village of Bay View, Ohio shall be counsel for the Village Planning and Zoning Commission in any such and all appeals prosecuted under this section and no members of the Commission shall be put to any personal expense in connection with any such appeal.

## **9.9 Duties of the Planning and Zoning Commission**

For the purpose of this Ordinance, the Commission shall have the following duties:

1. Recommend the proposed Zoning Ordinance including text and Official Zoning District Map to the Village Council for formal adoption.
2. Initiate advisable Official Zoning District Map changes, or changes in the text of the Zoning Ordinance where same will promote the best interest of the public in general through recommendation to the Village Council.
3. Review all proposed amendments to the text of this Ordinance and the Official Zoning District Map and make recommendations to the Village Council.
4. Carry on a continuous review of the effectiveness and appropriateness of this Ordinance and recommend such changes or amendments as it feels would be appropriate.
5. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation or determination made by the Zoning Inspector.
6. Authorize such variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this Ordinance will result in unnecessary hardship and so that the spirit of this Ordinance shall be observed and substantial justice done.
7. Grant conditional use permits for the use of land, buildings or other structures if such permits for specific uses are provided for in this Ordinance.
8. Revoke an authorized variance or conditional use permit, if any condition of the variance or permit is violated.
9. For any nonconformity to be moved, extended, altered, expanded or used as grounds for any other use or structure, approval of the Planning and Zoning Commission is required.

## **9.10 Village Council**

The powers and duties of the Village Council pertaining to the Zoning Ordinance are as follows:

1. Approve the appointments of members to the Planning and Zoning Commission.
2. Initiate or act upon suggested amendments to the Zoning Ordinance text or Official Zoning District Map. Final action upon a suggested zoning amendment shall be undertaken at a public hearing.
3. Override a written recommendation of the Planning Commission on a text or map amendment provided that such legislative action is passed by a vote of not less than three-quarters (3/4) of the Village Council.
4. Hear and decide appeals from the decisions of the Planning and Zoning Commission.

## **9.11 Schedule of Fees**

The Village Council shall by Ordinance, establish a schedule of fees for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals and other procedures and services pertaining to the administration and enforcement of this Ordinance after considering the recommendations of the Zoning Inspector with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be posted in the Office of the Zoning Inspector and may be altered or amended only by the Village Council. Until all such appropriate fees, charges and expenses have been paid in full, no action shall be taken on any application, appeal or administrative procedure.

# SECTION

## 10.0

### **PROCEDURE AND REQUIREMENTS FOR APPEALS AND VARIANCES**

#### **10.1 Appeals**

Appeals to the Planning and Zoning Commission concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of legislative authority of the Village affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector and with the Planning and Zoning Commission, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Planning and Zoning Commission all the papers constituting the record upon which the action appealed from was taken.

## **10.2 Stay of Proceedings**

An appeal stays actions by the Zoning Inspector seeking enforcement of or compliance with the order or decision appealed from, unless the Zoning Inspector certifies to the Planning and Zoning Commission that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Planning and Zoning Commission or a court, issued on application of the party seeking the stay for due cause shown, after notice to the Zoning Inspector. Notwithstanding the provisions of this section, no stay shall apply where a person fails to secure a zoning permit before beginning construction.

## **10.3 Variances**

A variance may be granted by the Board of Appeals if it concludes that strict enforcement of the ordinance would result in unnecessary hardships for the applicant and that, by granting the variance, the spirit of the resolution will be observed, public safety and welfare secured, and substantial justice done. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Resolution would result in unnecessary hardship.

## **10.4 Application and Standards for Variances**

Except as otherwise permitted in this Ordinance, no variance in the strict application of the provisions of this Ordinance shall be granted by the Planning and Zoning Commission unless the Commission shall find that the written application for the requested variance contains all of the following requirements:

1. Name, address and phone number of applicants(s);
2. Legal description of property;
3. Description or nature of variance requested;
- 4.

A fee as established by ordinance; 5. Narrative statements establishing and substantiating that the variance

conforms to the following standards:

- a. The granting of the variance shall be in accordance with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located and shall not be injurious to the area or otherwise detrimental to the public welfare.
- b. The granting of the variance will not permit the establishment of any use which is not otherwise permitted in the district.
- c. There must exist special circumstances or conditions, fully described in the findings, applicable to the land or buildings for which the variance is sought, which are peculiar to such land or buildings and do not apply generally to land or buildings in the area, and which are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building. Mere loss in value shall not justify a variance; there must be deprivation of beneficial use of land.
- d. There must be proof of hardship created by the strict application of this Ordinance. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of variances granted under similar circumstances need not be considered.
- e. The granting of the variance is necessary for the reasonable use of the land or building and the variance as granted is the minimum variance that will accomplish this purpose.

- f. The proposed variance will not impede an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values of the adjacent area.
  
- g. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures or buildings in the same district.

### **10.5 Additional Conditions and Safeguards**

The Commission may further prescribe any conditions and safeguards that it deems necessary to insure that the objectives of the regulations or provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Ordinance.

### **10.6 Public Hearing by Planning and Zoning Commission**

The Planning and Zoning Commission shall hold a public hearing within thirty (30) days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

### **10.7 Notice of Public Hearing in Newspaper**

Before conducting the public hearing required in Section 10.6, notice of such hearing shall be given in one or more newspapers of general circulation in the Village at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance. The failure to deliver the notification as provided in this section shall not invalidate any such amendment. The notice shall contain the

same information as required of notices published in newspapers as specified in Section 12.

### **10.8 Action by the Planning and Zoning Commission**

Within thirty (30) days after the public hearing required in Section 10.6, the Planning and Zoning Commission shall either approve, approve with supplementary conditions or disapprove the request for appeal or variance. The Planning and Zoning Commission shall further make a finding in writing that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building or structure.

### **10.9 Term of Variance**

A variance once granted shall not be withdrawn or changed unless there is a change of circumstances or if after the expiration of sixty (60) days from the granting of the variance no work has been commenced in accordance with the plans for which such variance was granted or if after the expiration of one (1) year from the granting of the variance, the work to be done in accordance with the plans for which such variance was granted has not been completed.

The Zoning Inspector shall send a thirty (30) day notice of intention to withdraw or change the variance to the person granted the variance. If the variance is withdrawn, said variance shall be deemed null and void and all regulations governing said premises in question shall revert to those in effect before the variance was granted.



# SECTION

# 11.0

## **PROCEDURES AND REQUIREMENTS FOR CONDITIONAL USE PERMITS**

## **11.1 Purpose**

In recent years, the characteristics and impacts of an ever increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety and general welfare of the community. Toward these ends, it is recognized that this Ordinance should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, public facilities requirements and traffic generation. Consequently, conditional use permits are not affected by the transfer of ownership.

## **11.2 Contents of Conditional Use Permit Application**

Any owner, or agent thereof, of property for which a conditional use is proposed shall make an application for a conditional use permit by filing it with the Zoning Inspector, who shall within seven (7) days transmit it to the Planning and Zoning Commission. Such application at a minimum shall contain the following information:

1. Name, address and phone number of the applicant;
2. Legal description of the property;
3. Zoning district;
4. Description of existing use;
5. Description of proposed conditional use;
6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, streets and traffic accesses, open spaces, refuse and service areas, utilities, signs, yards, landscaping features and such other information as the Commission may require;
7. A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent properties and with the Comprehensive Plan, to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes and vibration;
8. A list containing the names and mailing addresses of all owners of property within five hundred (500) feet of the property in question;
9. A fee as established by Ordinance;

10. A narrative addressing each of the applicable criteria contained in Section 9.2.

### **11.3 General Standards For All Conditional Uses**

The Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

1. Is in fact a conditional use as established under the provisions of this section and appears on the Schedule of District Regulations adopted for the zoning district involved;
2. Will be in accordance with the general objectives, or with any specific objective of the County's Comprehensive Plan and/or the Zoning Ordinance;
3. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
4. Will not be hazardous or disturbing to existing or future neighboring uses;
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property

or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

8. Will have vehicular approaches to the property which shall be so designed as not to create and interference with traffic on surrounding public thoroughfares;
9. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

#### **11.4 Fee**

The fee payment for conditionally permitted uses shall be determined by ordinance of the Village Council. The Planning and Zoning Commission may refer the application to qualified consultants when it deems expert advice necessary and the applicant shall pay for the cost of such expert advice.

# SECTION

# 12.0

## **AMENDMENT**

### **12.1 Procedure For Amendment or District Changes**

This Ordinance may be amended utilizing the procedures specified in this Section.

### **12.2 General**

Whenever the public necessity, convenience, general welfare or good zoning practices require, Village Council may by ordinance, after receipt of recommendation thereon from the Planning and Zoning Commission and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property.

### **12.3 Initiation of Zoning Amendments**

Amendments to this Ordinance may be initiated in one of the following ways:

1. By the adoption of a motion by the Planning and Zoning Commission;
2. By the adoption of a resolution by Village Council;
3. By the filing of an application by at least one (1) owner or lessee of property within the area proposed to be changed or affected by said amendment.

### **12.4 Contents of Application For Zoning Map Amendment**

Applications for amendments to the Official Zoning Map adopted as part of this Ordinance shall contain at least the following information:

1. The name, address and phone number of the applicant;
2. The proposed amending ordinance, approved as to form by the Village Legal Advisor;
3. A statement of the reason(s) for the proposed amendment;
4. Present use;
5. Present zoning district;
6. Proposed use;
7. Proposed zoning district;
8. A vicinity map at a scale approved by the

Zoning Inspector showing

property lines, thoroughfares, existing and proposed zoning and such other items as the Zoning Inspector may require;

9. A list of all property owners and their mailing addresses who are contiguous to or directly across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case, except that addresses need not be included where more than ten (10) parcels are to be rezoned; 10. A statement on the ways in which the proposed amendment relates to the Comprehensive Plan; 11. A fee as established by Village Council.

### **12.5 Contents of Application For Zoning Text Amendment**

Applications for amendments proposing to change, supplement, amend or repeal any portion(s) of this Ordinance, other than the Official Zoning Map, shall contain at least the following information:

1. The name, address and phone number of the applicant; 2. The proposed amending ordinance, approved as to form by the Village Legal Advisor; 3. A statement of the reason(s) for the proposed amendment; 4. A statement explaining the ways in which the proposed amendment relates to the Comprehensive Plan; 5. A fee as established by Village Council.

### **12.6 Transmittal to Planning and Zoning Commission**

Immediately after the adoption of a resolution by the Village Council or the filing of an application by at least one (1) owner or leases of property, said resolution or application shall be transmitted to the Commission.

### **12.7 Recommendation by Planning and Zoning Commission**

Within sixty (60) days from the receipt of the proposed amendment, the Planning and Zoning Commission shall transmit its recommendation to the Village Council.

The Planning Commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment as requested, or it may recommend that the amendment be denied. The written decision of the Planning and Zoning Commission shall indicate the specific reason(s) upon which the recommendation is based, to include the basis for their determination that the proposed amendment is or is not consistent with the Comprehensive Plan.

### **12.8 Public Hearing by Village Council**

Upon receipt of the recommendation from the Planning and Zoning Commission, Village Council shall schedule a public hearing. Said hearing shall be not more

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than forty (40) days from the receipt of the recommendation from the Planning and Zoning Commission.

### **12.9 Notice of Public Hearing in Newspaper**

Notice of the public hearing required in Section 12 shall be given by Village Council at least one (1) publication in one (1) or more newspapers of general circulation in the Village affected. Said notice shall be published at least thirty (30) days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment. During such thirty days the text or copy of the text of such ordinance, measure, or regulation, together with maps or plans, or copies thereof, forming part of or referred to in such ordinance, measure or regulation and the maps, plans and reports submitted by the Planning and Zoning Commission, board of officer shall be on file for public examination, in the office of the Clerk of the legislative authority or in such other office as designated by the legislative authority.

### **12.10 Notice to Property Owners by Village Council**

If the proposed amendment intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, at least twenty (20) days before the



day of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by Village Council. The failure to deliver the notification as provided in this section shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in Section 12.9.

### **12.11 Action by Village Council**

Within thirty (30) days after the public hearing required by Section 12.8, the Village Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. In the event the Village Council denies or modifies the recommendation of the Planning Commission, it must do so by not less than three-fourths ( $\frac{3}{4}$ ) of the full membership of Village Council. No such ordinance shall be passed unless it has been fully and distinctly read on three different days except that such ordinance may become emergency legislation if three-fourths ( $\frac{3}{4}$ ) of the members of Village Council vote to dispense with this rule.

### **12.12 Effective Date and Referendum**

Such amendment adopted by the Village Council shall become effective thirty (30) days after the date of such adoption unless within thirty (30) days after the passage of the ordinance, there is presented to the Village Clerk, a petition signed by a number of qualified voters residing in the Village equal to not less than ten percent (10%) of the total vote cast in such area at the last preceding general election at which a Governor was elected, requesting the village Council to submit the zoning amendment to the electors of the Village for approval or rejection at the next general election.

No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the

amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

### **12.13 Annexation**

All land annexed to the Village subsequent to the adoption of this ordinance shall remain subject to the previous Township zoning district regulations until such time as the Official Zoning Map is amended according to the provisions of this section. All land annexed to the Village which, prior to annexation, is not subject to Township zoning, shall remain unzoned until the Official Zoning Map is amended according to the provisions of this section.

# SECTION

# 13.0

## **COMPLETION AND RESTORATION OF EXISTING BUILDINGS**

Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a Zoning Permit has heretofore been issued and the construction of which has been diligently pursued within thirty (30) days from issuance of the permit and the ground story framework completed within three (3) months of the date upon such permits and which entire building shall be completed according to the plans as filed, within nine (9) months from the date on which permit was issued. Nothing in this Ordinance shall prevent the restoration of a wall declared unsafe by the Building Inspector. Nothing in this Ordinance shall prevent the restoration of a building wholly or partly destroyed by fire, explosion, act of God or act of public enemy, subsequent to the passage of this Ordinance.

# SECTION 14.0

## **VALIDIT Y**

If any section, clause. Provision or portion of this Ordinance is at any time held to be invalid or unconstitutional by any court of competent jurisdiction, such holding

shall not affect or impede any other section, clause provision or portion of the Ordinance.

# SECTION

# 15.0

## **ENFORCEMENT**

### **15.0 General**

This article stipulates the procedures to be followed in obtaining permits, certificates and other legal or administrative approvals under this Ordinance.

### **15.1 Permits Required**

No building or other structure shall be erected, moved, added to, structurally altered nor shall any building, structure or land be established or changed in use without a permit therefore, issued by the Zoning Inspector. Zoning Permits shall be issued only in conformity with the provisions of this Ordinance unless the Zoning Inspector receives a written order from the Planning and Zoning Commission deciding on appeal, conditional use or variance.

### **15.2 Contents of Application for Zoning Permit**

The application for a Zoning Permit shall be made in writing and be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one (1) year. At a minimum, the application shall contain the following information and be accompanied by all required fees:

1. Name, address and phone number of applicant;
2. Legal description of property;
3. Existing use;
4. Proposed use;
5. Zoning district;
6. Plans in duplicate drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration;
7. Building heights;
8. Number of off-street parking spaces or loading berths and their layout;
9. Location and design of access drives;
10. Number of dwelling units;
11. If applicable, application for a sign permit or a conditional,

special or  
temporary use permit, unless previously  
submitted.

### **15.3 Approval of Zoning Permit**

Within thirty (30) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this Ordinance. All Zoning Permits shall, however, be conditional upon the commencement of work within one year. One copy of the plans shall be returned to the applicant by the Zoning Inspector, after the Zoning Inspector shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of plans, similarly marked shall be retained by the Zoning Inspector. The Zoning Inspector shall issue a placard to be posted in a conspicuous place on the property in question, attesting to the fact that the activity is in conformance with the provisions of this Ordinance.

### **15.4 Expiration of Zoning Permit**

If the work described in any Zoning Permit has not begun within one year from the date of issuance thereof, said permit shall expire and be revoked by the Zoning Inspector and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new Zoning Permit has been obtained or an extension granted.

### **15.5 Record of Zoning Permits**

The Zoning Inspector shall maintain a record of all Zoning Permits and copies shall be furnished, upon request and upon payment of the established fee, to any person.

### **15.6 Failure to Obtain a Zoning Permit**

Failure to obtain a Zoning Permit shall be a punishable violation of

this Ordinance.

### **15.7 Construction and Use to be as Provided in Applications, Plans, Permits and Certificates**

Zoning Permits issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use and arrangement, set forth in such approved plans and applications or amendments thereto and no other use, arrangement or construction. Use, arrangement or construction contrary to that authorized shall be deemed a punishable violation of this Ordinance.

### **15.8 Complaints Regarding Violations**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complaint, immediately investigate it and take action thereon as provided by this Ordinance.

### **15.9 Entry and Inspection of Property**

The Zoning Inspector is authorized to make inspections of properties and structures in order to examine and survey the same, at any reasonable hour, for the purpose of enforcing the provisions of this Ordinance. Prior to seeking entry to any property or structure for such examination or survey, the Zoning Inspector shall attempt to obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Inspector shall request the assistance of the Village Solicitor in securing a valid search warrant prior to entry.

### **15.10 Stop Work Order**



Subsequent to his determination that work is being done contrary to this Ordinance, the Zoning Inspector shall write a stop work order and post it on the premises involved. Removal of a stop work order, except by the order of the Zoning Inspector, shall constitute a punishable violation of this Ordinance.

### **15.11 Zoning Permit Revocation**

The Zoning Inspector may issue a revocation notice to revoke a permit or administrative approval which was issued contrary to misrepresentation in the application.

### **15.12 Notice of Violation**

Whenever the Zoning Inspector or his agent determines that there is a violation of any provision of this Ordinance, a warning tag shall be issued and shall serve as a notice of violation. Such order shall:

- a. Be in writing; b. Identify the violation; c. Include a statement of the reason or reasons why it is being issued and refer to the sections of this Ordinance being violated; and d. State the time by which the violation shall be corrected.

Service of notice of violation shall be as follows:

- a. By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of suitable age and discretion; or b. By certified mail deposited in the United States Post Office addressed to the person or persons responsible at a last known address. If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Building Inspector. Service shall be deemed complete when the fact of mailing is entered of record, provided that the ordinary mail envelope is not returned by the postal

authorities with an endorsement showing failure of delivery; or c. By posting a copy of the notice form in a conspicuous place on the premises found in violation.

### **15.13 Penalties and Fines**

It shall be unlawful to erect, establish, locate, construct, reconstruct, enlarge, change, convert, move, repair, maintain or structurally alter any building, structure or land in violation of any provision of this Ordinance or any amendment thereto. The violation of any provision of this Ordinance is a misdemeanor of the 4<sup>th</sup> degree. Any person, firm or corporation who violates this Ordinance or fails to comply with any of the requirements shall upon conviction thereof be fined not more than two hundred and fifty (\$250) dollars and sentenced to no more than 30 days jail in addition shall pay all costs and expenses involved in the case. Each day such violation continues after receipt of a violation notice shall be considered a separate offense. The owner or tenant of any building, structure, premises or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

### **15.14 Additional Remedies**

Nothing in this Ordinance shall be deemed to abolish, impair or prevent other additional remedies as provided by law. In the event of a violation of any provision or requirement of this Ordinance, or in the case of an imminent threat of such a violation, the Building Inspector, the Village Solicitor or the owner of any neighboring property who would be especially damaged by such violation, may, in addition to other recourse provided by law, institute mandamus, injunction, abatement or other appropriate actions to prevent, remove, abate, enjoin or terminate such violation.

# 16.0

## **CONFLIC T**

### **16.0 Conflict**

All Ordinances, parts of Ordinance and Resolutions in conflict, or inconsistent with the provisions of this Ordinance are hereby repealed.

