

Article XIII, Procedures

Sec. 13.01 Purpose.

It is the purpose of this Article to provide procedures and related standards for the review and regulation of land uses and uses of structures within the Village.

Sec. 13.02 Site Plan Review Procedures and Standards.

- (a) *Site Plan Review Required.* Except otherwise noted in this Ordinance, the development of any new use, the construction of any new structures, any change of an existing use of land or structure that impacts any requirement of this Ordinance, and all other building or development activities shall require site plan approval prior to construction and/or occupancy pursuant to this Article. For example, site plan review is required for any of the following activities:
- (i) Erection, moving, relocation, or conversion of a building or structure to create additional floor space, other than a single or two family dwelling.
 - (ii) Any development that would, if approved, provide for the establishment of more than one principal use on a parcel, such as a single family site condominium or similar project where a single parcel is developed to include two or more sites for detached single family dwellings.
 - (iii) Development of non-single family residential uses in single family districts.
 - (iv) Any change in land use or change in the use of a structure that potentially affects compliance with the standards set forth within this Ordinance.
 - (v) The development or construction of any accessory uses or structures, except for uses or structures that are accessory to a single family dwelling.
 - (vi) Any use or construction for which submission of a site plan is required by any provision of these regulations.
 - (vii) Proposal to establish any regulated use.
 - (viii) A building that has been vacant for longer than 12 months.
- (b) *Site Plan Not Required.* Notwithstanding the preceding Section, site plan approval is not required for the following activities still requiring permits.
- (i) Construction, moving, relocating or structurally altering a single or two-family home, including any customarily incidental accessory structures.
 - (ii) Excavating, filling, or otherwise removing soil, provided that such activity is

normally and customarily incidental to single family uses described in this subsection for which site plan approval is not required.

- (iii) A change in the ownership of land or a structure.
 - (iv) A change in the use of a structure to a similar use allowed by right in the zoning district in which it is located, provided that no modification to the site is proposed or required by the standards of the regulations and that the site maintains full and continuing compliance with this Ordinance.
- (c) *Submission of Site Plan for Review by Commission.* In order to initiate formal review by the Commission, the applicant is required to submit the following materials to the Zoning Officer:
- (i) Three completed and signed copies of an application for Site Plan Review;
 - (ii) 12 individually folded copies of the site plan;
 - (iii) Evidence that the plan has been submitted for review to affected and applicable county, state, and federal agencies; and
 - (iv) The required review fee.

These materials must be submitted to the Zoning Officer in sufficient time to allow review by Village staff and consultants prior to the Commission meeting at which the review will occur. The site plans and required documentation must be submitted to the Village on the first business day of the month for consideration for review by the Commission. The Zoning Officer has the determine what is Asufficient time@, based on the scope and complexity of the proposal.

- (d) *Distribution of Plans.* Upon submission of all required application materials and following completion of all items required by the adopted site plan review manual, the proposed site plan shall be placed on the next open Commission agenda. The site plan and application shall be distributed by the Clerk-Treasurer to appropriate Village officials and the Village Planner for review. If deemed necessary by the Zoning Officer, the plans may also be submitted to the Village Engineer for review.
- (e) *Review and Action.*
- (i) *Informal Review of Conceptual Plans by Village Staff.* Applicants are encouraged to meet with the Village Staff, including but not limited to the Village Engineer, Village Planner, and such other persons as determined by the Zoning Officer, for informal review of conceptual site plans. The purpose of this informal review is to discuss applicable standards and technical issues, comment on the projects compliance with the standards of this Ordinance, and determine the appropriate type of review process. The applicant or Village Planner may also request input from other Village staff or consultants. Conceptual plans should, at

minimum, include the proposed use, building footprint, existing conditions, general site layout and conceptual grading. Conceptual plan review comments are non-binding, and should be considered by the applicant to be suggestions and recommendations only. A review fee may be required for conceptual plan review, as determined by Village.

- (ii) **Informal Review by the Commission.** The Commission may request an informal workshop and formal regular or special meetings on a proposed project. The meeting at which a site plan proposal is considered shall be a workshop meeting of the Commission. The Commission shall review the reports of the appropriate Village staff and consultants and discuss the findings and recommendations with the applicant. No formal action on a site plan will occur at the workshop meeting.
- (iii) **Request for Revisions.** Upon review of the site plan proposal at a workshop, the Commission may require the applicant to revise the plans or supply additional information. The applicant shall submit any requested revised plans for review prior to formal action being taken. All review fees must be paid prior to any review. It shall be the applicants responsibility to consult with Village staff and consultants during this revision process. Action on the site plan shall remain tabled until the next regular Commission meeting following review of a substantially complete plan at a Commission workshop.
- (iv) **Public Hearing.** A site plan involving use(s) subject to conditional use approval, planned residential development, or planned unit developments, shall require a public hearing. After payment of appropriate fees, the Zoning Officer may set the date of the public hearing for a regular or special meeting of the Commission. No hearing may held before the Commission has had an opportunity to review the plan at a workshop session.
- (v) **Final Action.** The Commission shall review the site plan, together with any reports and recommendations from staff, consultants and other reviewing agencies and any public comments. The Commission shall then make a determination based on the requirements and standards of this Ordinance. The Commission is authorized to table, approve, approve subject to conditions or deny the site plan as follows:
 - (1) **Table.** Upon determination by the Commission that a site plan is not sufficiently complete for approval or denial, or upon a request by the applicant, the Commission may table the item until a later meeting.
 - (2) **Denial.** Upon determination that a site plan does not comply with the standards and regulations set forth in this Ordinance, or would require extensive revisions to comply with said standards and regulations, the site plan shall be denied. If a site plan is denied, a written record shall be provided to the applicant listing the reasons for such denial. Failure of the applicant, or the applicant's designated representative, to attend two or more scheduled meetings shall be grounds for the Commission to deny approval of the site plan.

- (3) Approval. Upon determination that a site plan is in compliance with the requirements of this Ordinance and other applicable ordinances and laws, the site plan shall be approved.
- (4) Approval subject to conditions. The Commission may approve a site plan, subject to one or more conditions necessary to address minor modifications to the site plan, ensure that public services and facilities can accommodate the proposed use, protect significant natural features, ensure compatibility with adjacent land uses, or otherwise meet the intent and purpose of this Ordinance.

The applicant shall re-submit the site plan for final approval by the Commission after conditions have been met. The Commission may waive its right to review the revised plan, and delegate authority to the Zoning Officer or staff to review and approve a revised site plan on the Commission's behalf after required conditions have been addressed. The Commission may require that the Zoning Officer secure a favorable recommendation from the Village Planner and/or Village Engineer prior to final approval of the revised plan.

- (e) *Appeal of Decision.* The applicant, or any interested party, may appeal the decision of the Commission on a site plan to the Board. Such appeal shall proceed in accordance with the procedures outlined for appeals in this Ordinance.
- (f) *Recording of Site Plan Action.* Commission action on the site plan shall be recorded in the Commission meeting minutes, stating the name and location of the project, the proposed use, the most recent plan revision date, and the conditions or grounds for the Commission's action. The Commission secretary shall clearly mark three copies of the application and final site plans APPROVED or DENIED, as appropriate, with the date that action was taken. One marked copy will be returned to the applicant, and the other two copies will be kept on file by the Village.
- (g) *Procedure after Site Plan Approval.*
 - (i) Approval Expiration. Site plan approval becomes null and void if substantial construction has not commenced within 365 days following the final approval of the site plan by the Commission, or if construction has not been completed within 12 months after it commenced following the issuance of a building permit. In such a case, the applicant shall file a new application. Review by the Commission of the new application and site plan shall be required.
 - (ii) Approval Extensions. Upon written request of the applicant, prior to the expiration of a previously granted approval, the Commission may review the circumstances surrounding a failure to meet the required deadlines. The Commission may grant an extension of up to 12 months to an approval, if it finds that the approved site plan continues to adequately represent current conditions on

and surrounding the site and that the site plan conforms to the standards of this Ordinance in effect at the time of the applicant's request for an extension.

- (iii) **Site Maintenance After Approval.** It shall be the responsibility of the owner of a property for which site plan approval. Any property owner who fails to maintain an approved site plan in full compliance with approvals granted by the Commission according to the provisions of this Ordinance, shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the penalties stated herein.
- (iv) **Outside Agency Permits or Approvals.** The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies.
- (v) **Revocation.** An approved site plan may be revoked by the Commission if construction on the site is not completed or is not progressing in a manner consistent with the approved plans. In such a case, the site plan shall be placed on the agenda of a Commission meeting for a public hearing. The Zoning Officer shall cause written notice to be provided to the applicant at least 10 days prior to the meeting and shall publish notice of said hearing no later than five days prior to the date and time. The notice shall reduce all alleged inconsistencies and violations to writing. The Zoning Officer, the applicant, and other interested persons shall be allowed to present information and testimony to the Commission at the hearing. If the Commission finds that an inconsistency or violation of the approved site plan exists at the time of the hearing, then, by a majority vote of attending members, the Commission may revoke the approval of the site plan and order the site returned to its original condition by a date certain. Failure to comply with such an order shall be deemed a violation of the use provisions of this Ordinance and shall be subject to the penalties stated herein.

Sec. 13.03 Minor Site Plan Modifications/Administrative Review.

If a minor site plan modification is made, an applicant may have an administrative review and not be required to go before the Commission to amend the site plan. Variances, planned residential developments, planned unit developments, or the expansion of a nonconforming use are not eligible for an administrative review. Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file in the office of the Zoning Officer. The Zoning Officer shall have the authority to require a new site plan for the purposes of clarity. The Commission shall be advised of all minor site plan modifications approved by the Zoning Officer, and such modifications shall be noted on the site plan and in the minutes of the Commission. The following activities shall be eligible for administrative plan review in accordance with this Article:

- (a) Minor changes during construction due to unanticipated site constraints, or to improve safety, protect natural features, or comply with unanticipated requirements of outside

agencies.

- (b) Landscape changes to similar species consistent with the standards of this Ordinance that do not reduce the total amount of landscaping on the site.
- (c) Changes to a structure or site required by the Zoning Officer for safety considerations.
- (d) Establishment of home occupations specifically listed as a permitted use.
- (e) Bike path, pathway, or sidewalk construction or relocation.
- (f) Grading, excavation, filling, soil removal, creation of ponds, or clearing of trees within an area up to 100 square feet on a lot occupied by a residential dwelling.
- (g) Re-occupancy of a vacant building that has been unoccupied for less than 12 months.
- (h) Replacing an existing sign due to damage, theft, or other situation, which was approved by the Commission with an identical sign.

Sec. 13.04 Application and Site Plan Review Requirements.

The following information shall be included with all applications for site plan review under this Ordinance, except where the Commission determines that certain information is not necessary or applicable to the review:

- (a) *Application Form.* The application form shall be completed by the applicant and contain, at minimum, the following information:
 - (i) Applicant's name and address.
 - (ii) Name and address of property owner, if different from applicant.
 - (iii) Common description of property and complete legal description.
 - (iv) Dimensions of land and total acreage.
 - (v) Existing zoning.
 - (vi) Proposed use of land and name of proposed development, if applicable.
 - (vii) Proposed buildings to be constructed, including square feet of gross floor area.
 - (viii) Project value.
 - (ix) Employment opportunities created, if applicable.
- (b) *Site Plan Descriptive and Identification Data.* Site plans shall consist of an overall plan for the entire development, drawn to a scale of not less than one inch equals 50 feet for property less than three acres, and one inch equals 100 feet for property three acres or

more in size. Sheet size shall be at least 24 inches by 36 inches. The following descriptive and identification information shall be included on all site plans:

- (i) Applicant's name, address, and telephone number.
- (ii) Title block indicating the name of the development.
- (iii) Scale.
- (iv) Northpoint.
- (v) Dates of submission and revisions (month, day, year).
- (vi) Location map drawn to scale with northpoint.
- (vii) Legal and common description of property.
- (viii) The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel, the plan should indicate the boundaries of total land holding.
- (ix) Identification and seal of architect or engineer who prepared plan. The seal of a land surveyor may be accepted if the site plan involves no building or engineering. The seal of a landscape architect may be accepted on landscaping plans.
- (x) Written description of proposed land use.
- (xi) Zoning classification of petitioner's parcel and all abutting parcels.
- (xii) Proximity to section corner and major thoroughfares.
- (xiii) Notation of any variances which have or must be secured.
- (xiv) Net acreage (minus rights-of-way) and total acreage, to the nearest 1/10 acre.

(c) *Site Data.*

- (i) Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.
- (ii) Front, side, and rear setback dimensions.
- (iii) Topography on the site and within 100 feet of the site at two foot contour intervals, referenced to a U.S.G.S. benchmark.
- (iv) Proposed site plan features, including buildings, roadway widths and names, and parking areas.
- (v) Dimensions and centerlines of existing and proposed roads and road rights-of-way.
- (vi) Acceleration, deceleration, and passing lanes, where required.
- (vii) Proposed location of driveway entrances and on-site driveways.
- (viii) Cross-section of any proposed roads.
- (ix) Location of existing drainage courses, floodplains, lakes and streams, with elevations.
- (x) Location of existing and proposed interior sidewalks and sidewalks in the right-of-way.
- (xi) Exterior lighting locations and method of shielding lights from shining off the site.

- (xii) Trash receptacles locations and method of screening, if applicable.
- (xiii) Transformer pad location and method of screening, if applicable.
- (xiv) Layout of off-street parking areas and indication of total number of spaces and typical dimensions of spaces.
- (xv) Method of surfacing driveways, parking areas, and other vehicle maneuvering areas.
- (xvi) Information needed to calculate required parking in accordance with Zoning Ordinance standards.
- (xvii) The location of lawns and landscaped areas, including required landscaped greenbelts.
- (xviii) Landscape plan, including location, spacing and types of shrubs, trees, and other live plant material.
- (xix) Location, sizes, and types of existing trees five inches or greater in diameter, measured at one foot off the ground, before and after proposed development.
- (xx) Tree replacement plan.
- (xxi) Cross-section of proposed berms.
- (xxii) Location and description of all easements for public rights-of-way, utilities, access, shared access, and drainage.
- (xxiii) Designation of fire lanes.
- (xxiv) Loading/unloading area.
- (xxv) The location of any outdoor storage of materials and the manner by which it will be screened

(d) *Building and Structure Details.*

- (i) Location, height, and outside dimensions of all proposed buildings or structures.
- (ii) Indication of the number of stores and number of commercial or office units contained in the building.
- (iii) Building floor plans.
- (iv) Total floor area.
- (v) Location, size, height, and lighting of all proposed signs.
- (vi) Proposed fences and walls, including typical cross-section and height above the ground on both sides.
- (vii) Building facade elevations, drawn to a scale of one inch equals four feet, or another scale approved by the Zoning Officer and adequate to determine compliance with the requirements of this Ordinance. Elevations of proposed buildings shall indicate type of building materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory buildings, and any outdoor or roof-located mechanical equipment, such as air conditioning units, heating units, and transformers.

(e) *Information Concerning Utilities, Drainage, and Related Issues.*

- (i) Schematic layout of existing and proposed sanitary sewers and septic systems; water mains, well sites, and water service leads; hydrants that would be used by public safety personnel to serve the site; storm sewers and drainage facilities, including the location of retention/detention facilities; and, the location of gas, electric, and telephone lines.
 - (ii) Indication of site grading and drainage patterns.
 - (iii) Types of soils and location of floodplains and wetlands, if applicable.
 - (iv) Soil erosion and sedimentation control measures.
 - (v) Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways, and parking lots.
 - (vi) Assessment of potential impacts from the use, processing, or movement of hazardous materials or chemicals, if applicable.
- (f) *Information Applicable to Multiple-Family Residential Development.*
- (i) The number and location of each type of residential unit (one bedroom units, two bedroom units, etc.).
 - (ii) Density calculations by type of residential unit (dwelling units per acre).
 - (iii) Lot coverage calculations.
 - (iv) Floor plans of typical buildings with square feet of floor area.
 - (v) Garage and carport locations and details, if proposed.
 - (vi) Pedestrian circulation system.
 - (vii) Location and names of roads and internal drives.
 - (viii) Community building location, dimensions, floor plans, and facade elevations, if applicable.
 - (ix) Swimming pool fencing detail, including height and type of fence, if applicable.
 - (x) Location and size of recreation open areas.
 - (xi) Indications of type of recreation facilities proposed for recreation area.
 - (xii) Colored rendering of typical building.
- (g) *Information Applicable to Commercial and Industrial Development.*
- (i) Type of commercial or industrial use being proposed.
 - (ii) Indication of the estimated number of employees.
- (h) *Non-Applicable Items.* If any of the items listed are not applicable to a particular site, the site plan shall provide a list of each item considered not applicable, and the reason(s) why each listed item is not considered applicable.
- (i) *Other Required Data.* Other data may be required if deemed necessary by the Zoning Officer or the Commission to determine compliance with the provisions in this Ordinance. Such information may include traffic studies, market analysis, environmental

assessments, condominium documents, and evaluation of the demand on public facilities and services.

Sec. 13.05 Standards for Site Plan Approval.

The following criteria shall be used as a basis upon which site plans will be reviewed and approved, approved with conditions, or denied:

- (a) *Adequacy of Information and Compliance with Ordinance Requirements.* The site plan includes all required information in a complete and understandable form that provides an accurate description of the proposed uses, structures and site improvements. The site plan complies with all applicable Ordinance requirements, including but not limited to minimum floor space, height of building, lot size, yard space and density.
- (b) *Site Design Characteristics.* All elements of the site design are harmoniously and efficiently organized in relation to topography, parcel configuration, adjacent properties, traffic operations, adjacent streets and driveways, pedestrian access, and the type and size of buildings. The site is designed in a manner that promotes the normal and orderly development of surrounding property for uses permitted by this Ordinance.
- (c) *Site Appearance and Coordination.* Site elements are designed and located so that the proposed development is aesthetically pleasing and harmonious with adjacent existing or future developments. All site features, including vehicle and pedestrian circulation, building orientation, landscaping, lighting, utilities, recreation facilities, and open space are harmonious and coordinated with adjacent properties.
- (d) *Preservation of Site Features.* The site design preserves and conserves natural, cultural, historical and architectural site features, including but not limited to architecturally or historically significant buildings, archeological sites, wetlands, topography, tree-rows and hedgerows, wooded areas and significant individual trees.
- (e) *Pedestrian Access and Circulation.* The arrangement of public or common ways for pedestrian circulation connects to existing or planned sidewalks or bicycle pathways in the area, and is insulated as completely as possible from the vehicular circulation system. The site design complies with applicable federal, state, and local laws and regulations regarding barrier-free access.
- (f) *Vehicular Access and Circulation.* Drives, streets, parking, site access and other vehicle-related elements are designed to minimize traffic conflicts on adjacent streets and promote safe and efficient traffic circulation within the site.

- (g) *Building Design and Architecture.* Building design and architecture relate to and are harmonious with the surrounding neighborhood with regard to texture, scale, mass, proportion, materials and color.
- (h) *Parking and Loading.* Off-street parking lots and loading zones are arranged, located and designed to accommodate the intensity of proposed uses, minimize conflicts with adjacent uses, enhance the character of the neighborhood, and promote shared-use of common facilities by adjoining properties.
- (i) *Landscaping and Screening.* Landscaping and screening are provided in a manner that adequately buffers adjacent land uses and screens off-street parking, mechanical appurtenances, loading and unloading areas and storage areas from adjacent residential areas and public rights-of-way.
- (j) *Exterior Lighting.* All exterior lighting fixtures are designed, arranged and shielded to minimize glare and light trespass, prevent night blindness and vision impairments, and maximize security.
- (k) *Impact upon Public Services.* The impact upon public services will not exceed the existing or planned capacity of such services, and adequate public services (including but not limited to utilities (water, sanitary & storm sewers, county drains, natural gas, electricity and telephone), streets, police and fire protection, public schools and sidewalks/bicycle paths) are available or provided to the site, and are designed with sufficient capacity and durability to properly serve the development.
- (l) *Drainage and Soil Erosion.* Drainage systems, stormwater facilities, and soil erosion, sedimentation and dust control measures are arranged, located and designed to promote shared-use of common facilities by adjoining properties. Adjoining properties, public rights-of-way and the capacity of the public storm drainage system will not be adversely affected by stormwater runoff and sedimentation.
- (m) *Emergency Access and Vulnerability to Hazards.* All sites and buildings are designed to allow convenient and direct emergency access, and the level of vulnerability to injury or loss from incidents involving hazardous materials or processes will not exceed the Village's emergency response capabilities.

Sec. 13.06 Development and Maintenance in Accordance with an Approved Site Plan.

It shall be the responsibility of the owner of the property for which site plan approval has been granted to develop, improve and maintain the site, including the use, buildings and all site elements in accordance with the approved site plan and all conditions of approval, until the

property is razed or a new site plan is approved. Failure to comply with the provisions of this Section shall be a violation of this Ordinance and shall be subject to the same penalties appropriate for a use violation. The Zoning Officer shall make periodic investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall constitute grounds for the Commission to rescind site plan approval.

Sec. 13.07 Conditional Use Regulations.

- (a) *Intent.* The procedures and standards in this Section are intended to provide a consistent and uniform method for review of conditional use proposals. Conditional uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as permitted uses in a particular zoning district. These review procedures and standards are intended to accomplish the following purposes:
- (i) Ensure full compliance with the standards contained in this Ordinance and other applicable local ordinances, and state and federal laws.
 - (ii) Achieve efficient use of the land.
 - (iii) Prevent adverse impact on adjoining or nearby properties.
 - (iv) Protect natural resources.
 - (v) Facilitate development in accordance with the Village's land use objectives.
 - (vi) Minimize and mitigate adverse impacts upon the Village's ability to provide services.
- (b) *Procedures and Requirements.* Conditional use applications shall be submitted in accordance with the following procedures and requirements, which provide for review and action by the Commission. Although a site plan must be submitted with a conditional use application, approval of the conditional use is required prior to site plan approval.
- (i) *Applicant Eligibility.* The application shall be submitted by the owner of an interest in land for which conditional use approval is sought, or by the owner's designated agent. The applicant or a designated representative should be present at all scheduled review meetings or consideration of the proposal may be tabled.
 - (ii) *Application Forms and Documentation.* The application for conditional use shall be made on the forms and according to the guidelines in this Ordinance, as provided by the Zoning Officer.
 - (iii) *Application Data Requirements.* A site plan shall be submitted with the conditional use application. In addition, the applicant shall complete any forms and supply any other data that may be required by the Commission, Council, or Village staff to make the determination required, herein. The applicant shall

provide all necessary written or graphic materials to document compliance with the standards set forth in this Ordinance, and other regulatory guidelines specified for particular conditional uses elsewhere in this Ordinance.

- (iv) Site Plan Preparation. The site plan shall be prepared in the manner specified in this Ordinance and on the conditional use application form. A site plan which does not meet the stipulated requirements shall be considered incomplete and shall therefore not be subject to formal review.
- (v) Submission of a Completed Plan. The conditional use application materials, required fees, and 12 copies of the completed site plan shall be submitted to the Zoning Officer for review.
- (vi) Review by the Village Officials. The Zoning Officer and other appropriate Village officials shall review the site plan and application materials, and prepare a written review, which shall specify any deficiencies in the site plan and application and make recommendations as appropriate.
- (vii) Submission of a Revised Plan and Conditional Use Application. The applicant shall revise the site plan and application materials, based on the recommendations set forth in the Zoning Officer's review. The applicant shall then submit 12 copies of the revised plan for further review by staff and the Commission.
- (viii) Commission Consideration. After all application materials have been received and review fees paid, the application shall be reviewed in accordance with following procedures:
 - (1) Acceptance for Processing. The application shall be placed on the agenda of the next available scheduled Commission meeting and a public hearing shall be scheduled.
 - (2) Public Hearing. Notice of the public hearing shall be published in a newspaper of general circulation in the Village, and sent by mail or personal delivery to the owners of property for which special approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet.
 - (3) Commission Review. Following the public hearing, but not necessarily at the same meeting, the conditional use proposal and plan shall be reviewed by the Commission, based on the standards and regulations in this Section.
 - (4) Plan Revision. If the Commission determines that revisions are necessary to bring the conditional use proposal into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised application and site plan. Following submission of revised application materials, the conditional use proposal shall be placed on the agenda of the next available scheduled meeting of the Commission for further review and possible action.
- (ix) Commission Determination. The Commission shall review the application for conditional use, together with the public hearing findings and reports and

recommendations from the Zoning Officer, Village Planner, Village Engineer, public safety officials, and other reviewing agencies. The Commission shall then make a determination on the conditional use application, based on the requirements and standards of this Ordinance. The Commission may approve, approve with conditions, or deny a conditional use request as follows:

- (1) Approval. Upon determination by the Commission that the final plan for conditional use is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, approval shall be granted.
- (2) Approval with Conditions. The Commission may impose reasonable conditions with the approval of a conditional use proposal, to the extent authorized by law. Conditions imposed shall meet all of the following requirements:
 - (a) Conditions shall be designed to protect natural resources, the health, safety, and general welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (b) Conditions shall be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - (c) Conditions shall be necessary to meet the intent and purpose of this Ordinance, related to the standards established in this Ordinance for the land use or activity under consideration, and necessary to insure compliance with those standards.
- (3) Denial. Upon determination by the Commission that a conditional use proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise would be injurious to the public health, safety, general welfare, and orderly development of the Village, the conditional use proposal shall be denied.
- (x) Appeal of Decision. The applicant, or any interested party, may appeal the decision of the Commission on a conditional use to the Board. Such appeal shall proceed in accordance with the procedures outlined for appeals in this Ordinance.
- (xi) Recording of Commission Action. Each action taken with respect to a conditional use shall be duly recorded in the minutes of the Commission. The minutes shall record the findings of fact relative to each conditional use proposal, the grounds for the action taken, and any conditions imposed in conjunction with approval.
- (xii) Effect of Approval. Upon approval, a conditional use shall be deemed a conforming use permitted in the district in which it is proposed, subject to any conditions imposed and final approval of the site plan. Such approval shall affect only the lot or portion thereof on which the proposed use is located.
- (xiii) Transferability. Conditional use approval shall apply only to the owner of the lot, and to the tenant if different from the owner, at the time of approval. Transfer of

property ownership and/or transfer of tenancy shall terminate a conditional use approval, and a new approval shall be required in order to re-establish or continue the previously approved use under new ownership and/or tenancy.

- (xiv) Application for a Building Permit. Prior to issuance of a building permit, the applicant shall submit proof of the following:
 - (1) Final approval of the conditional use application.
 - (2) Final approval of the site plan.
 - (3) Final approval of the engineering plans.
 - (4) Acquisition of all other applicable Village, county, or state permits.
 - (xv) Expiration of Conditional Use Approval. If construction has not commenced within 24 months of final approval, the approval becomes null and void and a new application for conditional use shall be required. Upon written request from the applicant, a 12 month extension may be granted by the Commission, if it finds that the approved conditional use application and site plan adequately represent current conditions on and surrounding the site. The written request for extension must be received prior to the site plan expiration date or a new application for conditional use review will be required.
 - (xvi) Revocation of Conditional Use Approval. Approval of a conditional use proposal and site plan may be revoked by the Commission if construction is not in conformance with the approved plans. In such a case, the Zoning Officer shall ask that the conditional use proposal be placed on the agenda of the Commission. Written notice shall be provided to the applicant at least five days prior to the meeting at which the case will be considered. The applicant shall be given the opportunity to present information and to answer questions. The Commission, as appropriate, may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.
 - (xvii) Performance Guarantee. The Commission may require that a performance guarantee be deposited with the Village to ensure faithful completion of the improvements. Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to: landscaping, open space improvements, streets, lighting, and sidewalks. The performance guarantee shall comply with the requirements outlined in this Ordinance.
- (c) *Standards for Granting Conditional Use Approval.* Approval of a conditional use proposal shall be based on the determination that the proposed use will comply with all applicable requirements of this Ordinance, including site plan review criteria set forth for applicable site development standards for specific uses set forth elsewhere in this Ordinance, and the following standards:
- (i) Compatibility with Adjacent Uses. The proposed conditional use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design shall minimize the impact of site activity on

surrounding properties. In determining whether this requirement has been met, consideration shall be given to:

- (1) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - (2) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
 - (3) The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 - (4) The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
- (ii) Compatibility with the Long Range Plan. The proposed conditional use shall be consistent with the general principles and objectives of the Long Range Plan.
- (iii) Compliance with Applicable Regulations. The proposed conditional use shall be in compliance with all applicable federal, state, and local laws and ordinances.
- (iv) Use of Adjacent Property. The proposed conditional use shall not interfere with the use and enjoyment of adjacent property.
- (v) Public Services. The proposed conditional use shall not exceed the capacity of existing and available public services, including but not necessarily limited to utilities, public roads, police and fire protection services, and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional use is completed.
- (vi) Impact of Traffic. The location of the proposed conditional use shall within the zoning district shall minimize the impact of traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:
- (1) Proximity and access to major thoroughfares.
 - (2) Estimated traffic generated by the proposed use.
 - (3) Proximity and relation to intersections.
 - (4) Adequacy of driver sight distances.
 - (5) Location of and access to off-street parking.
 - (6) Required vehicular turning movements.
 - (7) Provision of pedestrian traffic.
- (vii) Enhancement of Surrounding Environment. The proposed conditional use shall provide the maximum feasible enhancement of the surrounding environment, and shall not unreasonably interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. In determining whether this requirement has been met, consideration shall be given to:
- (1) The provision of landscaping and other site amenities. Provision of additional landscaping over and above the specific requirements of this

- Ordinance may be required as a condition of approval of a conditional use.
- (2) The bulk, placement, and materials of construction of proposed structures in relation to surrounding uses.
 - (viii) Impact on Public Health, Safety, and General Welfare. The proposed conditional use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed in a manner that is detrimental to public health, safety, and general welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.
 - (ix) Isolation of Existing Uses. The location of the proposed conditional use shall not result in a small residential area being substantially surrounded by non-residential development, and further, the location of the proposed conditional use shall not result in a small non-residential area being substantially surrounded by incompatible uses.
 - (x) Need for the Proposed Use. The Commission shall find that a need for the proposed use exists in the community at the time the conditional use proposal is considered.

Sec. 13.08 Variances and Appeals.

- (a) *Intent.* The purpose of this Section is to provide guidelines and standards to be followed by the Board in considering requests for variances and appeals, where the jurisdiction of the Board has been established by these regulations or by the Revised Code.
- (b) *Purpose of Variances and Appeals.*
 - (i) Appeals. Generally, an appeal may be taken to the Board by a person, or by any office, department, board, or bureau aggrieved by a written order, requirement, decision, interpretation, or determination made by the Commission or any administrative or enforcement official or body charged with enforcement of this Ordinance. An appeal must be filed within 14 days of issuance of the applicable written decision, and such appeal shall be made on forms made available by the Zoning Officer.
 - (ii) Variances. Where there are impractical difficulties@ (for area variances) or unnecessary hardships@ (for use variances) preventing a property owner from conforming with the strict letter of this Ordinance, the Board shall have the power to authorize variances from the standards in this Ordinance, with such conditions and safeguards as it may determine to be necessary so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done.
- (c) *Stay of Proceedings.* An appeal to the Board shall stay enforcement proceedings in

furtherance of the appealed action, unless the Zoning Officer certifies to the Board that by reason of the facts stated in the appeal, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed other than by an injunction granted by the Court of Common Pleas. A stay of proceedings shall not stay the Village's authority to issue a stop work order on a project that may be in progress and being performed in a manner that is not in conformance with applicable ordinances and regulations. Also, it shall not stay a project when the appeal is brought by a third-party contesting the issuance of a permit.

- (d) *Application.* Variances and appeals for which Board action is sought shall be commenced by a person filing an application to the Board on forms as specified by the Zoning Officer and accompanied by required fees. The application shall specify the grounds upon which the appeal is based and shall contain a notarized signature of the property owner or owner's agent. Applications involving a request for a variance shall specify the section number(s) containing the standards from which a variance is sought and the nature and extent of such variance.
- (e) *Plot Plan Requirements.* Applications involving a specific site shall be accompanied by a plot plan drawn to scale that includes the following information, where applicable:
 - (i) Applicant's name, address, and telephone number.
 - (ii) Property tax identification number, scale, northpoint, and dates of submission and revisions.
 - (iii) Zoning classification of petitioner's parcel and all abutting parcels.
 - (iv) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 50 feet of the site.
 - (v) For variances requested from any dimensional standard of this Ordinance, the plot plan shall include verified measurements of existing conditions and the proposed dimensions or calculations regarding the specific standards from which the variance is sought.
 - (vi) Any additional information required by the Zoning Officer or the Board to make the determination requested herein.

Where an application to the Board involves a variance sought in conjunction with a site plan or conditional use review by the Commission, the application data requirements for the other applicable review as set forth in this Ordinance shall be followed.

- (f) *Review.* The Zoning Officer shall forward the application, along with any supporting materials and plans to the Board. The Zoning Officer or the Board shall fix a reasonable time for the hearing of the appeal or variance. Notice of the public hearing shall be published in a newspaper of general circulation in the Village, and sent by mail or personal delivery to the owners of property for which special approval is being

considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. At the hearing, a party may appear in person or by agent or by attorney.

- (g) *Decision.* The concurring vote of three members of the Board shall be necessary to reverse an order, requirement, decision, or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass under, or to effect any variation in an ordinance adopted pursuant to the Revised Code. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, in accordance with the guidelines set forth herein. To that end, the Board shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. With an affirmative decision, the Board may impose conditions. The decision of the Board shall be final, but any person having an interest affected by a decision of the Board may appeal to the Court of Common Pleas.
- (h) *Record of Decision and Order.* The Board shall prepare and retain a record of each appeal, and shall base its decision on this record. This record shall include:
 - (i) The relevant administrative records and the administrative orders issued thereon relating to the appeal.
 - (ii) The notice of the appeal.
 - (iii) Such documents, exhibits, plans, photographs, or written reports as may be submitted to the Board for its consideration.

The written findings of fact, the decisions, and the conditions imposed by the Board in acting on the appeal shall be entered into the official record, after being signed by the Secretary of the Board. The final written decision shall constitute the final decision of the Board. Upon signing the final written decision, the Secretary of the Board shall serve by certified mail, return receipt requested, a copy of the final decision on any matter upon the applicant and other parties-in-interest.

- (i) *Approval Period.* If construction has not commenced within 24 months after the Board grants a variance to permit the erection or alteration of a building, then the variance becomes null and void. The period of approval may be automatically extended by 12 months if the variance was sought in conjunction with a site plan for which approval has been extended by the Commission.
- (j) *Standards for Variances and Appeals.* Variances and appeals shall be granted only in accordance with and based on the findings set forth in this Section. The burden of proof for variances and appeals shall be upon the applicant. The extent to which the following factors, standards, and criteria apply to a specific case shall be determined by the Board.

- (i) Factors Applicable to Area Variances (A practical difficulties@). The applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. The Board shall weigh the following factors to determine whether an area variance should be granted:
 - (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - (2) Whether the variance is insubstantial;
 - (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
 - (4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
 - (5) Whether the property owner purchased the property with knowledge of the zoning restrictions;
 - (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or
 - (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.
- (ii) Standards Applicable to Use Variances (A unnecessary hardships@). The applicant shall demonstrate by clear and convincing evidence that all of the following standards have been met in order to justify the granting of a use variance, as determined by the Board:
 - (1) The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
 - (2) The hardship condition is not created by actions of the applicant;
 - (3) The granting of the variance will not adversely affect the rights of adjacent owners;
 - (4) The granting of the variance will not adversely affect the public health, safety or general welfare;
 - (5) The variance will be consistent with the general spirit and intent of this Ordinance;
 - (6) The variance sought is the minimum which will afford relief to the applicant; and
 - (7) There is no other economically viable use which is permitted in the zoning district.
- (iii) Criteria Applicable to Appeals. The Board shall reverse an order of the Commission or a zoning official only if it finds that the action or decision appealed:
 - (1) was arbitrary or capricious; or
 - (2) was based on an erroneous finding of a material fact; or
 - (3) was based on erroneous interpretation of this Ordinance or zoning law; or

- (4) constituted an abuse of discretion.

Sec. 13.09 Amendments.

- (a) *Initiation of Amendment.* The Council may from time to time, at its own initiative or upon recommendation from the Commission or on petition, amend, supplement, or change the district boundaries or the regulations herein, pursuant to the authority and procedures set forth in the Revised Code. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.
- (b) *Application For Amendment.* A petition for an amendment to the text of this Ordinance or an amendment to change the zoning classification of a particular property shall be commenced by filing a petition with the Zoning Officer, on the forms and accompanied by the fees specified. The petition shall explicitly describe the proposed amendment and shall be signed by the applicant. Petitions for rezoning of a specific site shall be accompanied by a plot plan or survey, which shall contain the following information:
- (i) Applicant's name, address, and telephone number.
 - (ii) Scale, northpoint, and dates of submission and revisions.
 - (iii) Zoning classification of petitioner's parcel and all abutting parcels.
 - (iv) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
 - (v) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.
 - (vi) Location of existing drainage courses, floodplains, lakes and streams, and woodlots.
 - (vii) All existing and proposed easements.
 - (viii) Location of sanitary sewer systems, existing and proposed.
 - (ix) Location and size of watermains and building service leads, existing and proposed.

After the completed petition and all required supporting materials have been received and fees paid, the petition shall be reviewed in accordance with the following procedures.

- (c) *Commission Review.* The petition shall be placed on the agenda of the next regularly scheduled meeting of the Commission. The Commission shall review the petition for amendment in accordance with the procedures set forth in the Revised Code.
- (d) *Action by the Commission and Council.* The Commission shall make written findings of

fact which it shall transmit together with any comments received, and its recommendations to the Council. The Council shall hold a public hearing in accordance with procedures set forth in the Revised Code. The Council may by majority vote of its membership:

- (i) Adopt the proposed amendment.
 - (ii) Reject the proposed amendment.
 - (iii) Refer the proposed amendment back to the Commission for further recommendation within a specified time period. Thereafter, the Council may either adopt the amendment with or without the recommended revisions, or reject it.
- (e) *Reconsideration of a Proposed Amendment.* No application for a map amendment which has been denied by the Council shall be reconsidered unless there have been changes in the facts, evidence, and/or conditions in the case. Determination of whether there have been such changes shall be made by the Commission at the time the application is submitted for processing.
- (g) *Review Considerations.* The Commission and Council shall, at minimum, consider the following before taking action on any proposed amendment:
- (i) Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?
 - (ii) Will the proposed amendment further the long range planning goals of the Village?
 - (iii) Have conditions changed since the Zoning Ordinance was adopted, or was there a mistake in the Zoning Ordinance, that justify the amendment?
 - (iv) Will the amendment correct an inequitable situation created by the Zoning Ordinance, rather than merely grant special privileges?
 - (v) Will the amendment result in unlawful exclusionary zoning?
 - (vi) Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?
 - (vii) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?
 - (viii) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel?
- (h) *Record of Amendment Adoption.* A record of all amendments approved by the Council shall be maintained by the Village. A master Zoning Map shall be maintained by the Zoning Officer, which shall identify all map amendments by number and date.

Sec. 13.10 Permits and Certificates.

- (a) *Permit Required.* A permit or other appropriate permit shall be required as follows:
- (i) Prior to the erection, alteration, repair, renovation, demolition, or removal of any building or structure, including fences, walls, or hedges.
 - (ii) Prior to the establishment of a new use, whether the land is currently vacant or if a change in land use is proposed.
 - (iii) Prior to any change in use of an existing building or structure to a different class or type.
- (b) *Permit Application Requirements.* No permit shall be issued for construction, alteration, or remodeling of any building or structure until an application has been submitted, showing that the proposed improvements conform with the provisions of this Ordinance and with the Building Code. Applications for permits required by this Section shall be filed with the Zoning Officer on forms prescribed by that Official. Each application shall be accompanied by a written explanation of the proposed improvements, and, if applicable, a plan of the site drawn to scale. A site plan submitted and approved by the Submitted plans shall be of sufficient detail for the Official to determine whether the proposed improvements conform with this Ordinance, the Building Code, and other applicable laws and ordinances. The Commission in accordance with this Ordinance shall satisfy the requirements of this Section. At a minimum, the applicant must supply the following information:
- (i) The location, dimensions and parcel tax identification number of the land parcel.
 - (ii) Existing buildings or structures, plus the shape, size, and location of all buildings or structures to be erected, altered, or moved.
 - (iii) The existing and intended use of the parcel.
 - (iv) On residential parcels, the number of dwelling units contained within each building.
 - (v) The name and address of all persons having an ownership interest in the premises upon which the improvements are proposed, together with a written statement from all such persons indicating knowledge of and agreement with the proposal.
 - (vi) All information required by the Building Code.
 - (vii) Evidence of approval from the Summit County General Health District or the Ohio Environmental Protection Agency, as may be applicable, for location of a well and septic system on the parcel, or evidence of meeting all applicable Health District and Building Code requirements for a parcel which has been previously approved for a well and septic system.
 - (viii) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of these regulations will be complied with.

- (c) *Conformity with Applicable Ordinances and Approved Plans.* A permit shall be issued only if, after thorough inspection of the application materials and plans, the Zoning Officer finds that the proposal conforms with this Ordinance, other applicable adopted Village ordinances, and other applicable laws and ordinances, except where the Zoning Officer receives written notice of a variance having been granted by the Board.

A permit issued on the basis of a site plan approved by the Commission shall incorporate full compliance with the approved site plan as a condition of the issuance of the permit. Modifications to an approved site plan shall be in compliance with these regulations. Use, layout, or construction at variance with approved plans or application materials shall be deemed in violation of these regulations, and subject to penalties in accordance with provisions outlined in this Ordinance.

- (d) *Expiration of Permits.* A permit issued pursuant to the provisions of this Ordinance shall be consistent with the procedures stated within the Building Code. Expiration and notification requirements of the applicable code shall be followed.
- (e) *Inspection of Completed Work.* The holder of any permit issued pursuant to the requirements in this Section shall provide the Zoning Officer with copies of all approvals and/or certificates of completion from the designated building department and request a [certificate of completion](#) upon completion of the work authorized by the permit and prior to occupancy.
- (f) *Certificates of Completion.* A [certificate of completion](#) shall be required prior to occupancy or re-occupancy of any use of land, building or structure. It shall be unlawful for any person, firm or corporation to hereafter occupy or re-occupy or for any owner or agent thereof to permit the occupation or re-occupation of any building or addition thereto, or part thereof, for residential purpose until a [certificate of completion](#) has been issued by the Zoning Officer. The following guidelines shall apply to certificates of completion.
- (g) *Purpose of Certificates.* The purpose of a [certificate of completion](#) is to permit the occupancy or use of land, buildings, or structures. The [certificate of completion](#) can be issued only upon the determination by the Zoning Officer that the site is in compliance with the provisions of this Ordinance, the Building Code, adopted Village engineering standards, and that all outstanding Village fees or other charges have been paid.
- (h) *Certificates for New and Existing Buildings.* Failure to obtain a [certificate of completion](#) prior to commencing the use of property shall constitute a violation of this Ordinance, subject to the penalties as outlined herein.
- (i) *Temporary Certificates.* A temporary [certificate of completion](#) may be issued by the

Zoning Officer, for a portion of a building or structure prior to occupancy of the entire building or structure, provided that such portion of the building, structure, or premises is in conformity with the provisions of this Ordinance and other applicable regulations of the Village, and provided further that no threat to public safety exists. A performance guarantee may be required in accordance with provisions outlined in this Ordinance as a condition of obtaining a temporary certificate. No temporary [certificate of completion](#) shall be granted for a period in excess of six months. The date of expiration shall be indicated on the temporary certificate; failure to obtain a final [certificate of completion](#) within the specified time shall constitute a violation of this Ordinance, subject to the penalties as outlined herein.

- (j) *Certificates for Accessory Buildings to Dwellings.* Buildings and structures that are accessory to a dwelling shall not require a separate [certificate of completion](#), but may be included in the [certificate of completion](#) for the principal use on the same parcel, provided the accessory buildings or uses are shown on the plot plan and are completed at the same time as the principal use.
- (k) *Period of Validity.* A final [certificate of completion](#) shall remain in effect for the life of the building or structure, or part thereof, as long as the specific operation conducted within the building or structure or use of the land continues. A [certificate of completion](#) shall be required of any new occupant upon a change in occupancy of the building, structure, or land.
- (l) *Records of Certificates.* A record of all certificates of completion shall be kept in the office of the Zoning Officer. Copies of such certificates shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property.
- (m) *Application Requirements.* An application for a [certificate of completion](#) shall be made on forms supplied by the Zoning Officer and must be accompanied by the fees specified. A [certificate of completion](#) may be processed concurrently with an application for a building permit, if a building permit is required. The Zoning Officer shall determine if a non-residential occupancy change requires site plan review and approval by the Commission pursuant to this Ordinance.
- (n) *Issuance of Certificate.* The Zoning Officer shall issue a [certificate of completion](#) upon notification by an applicant of the completion of a building or structure or other improvements and upon finding that the building or structure, or part thereof, or the use of land conforms with an approved site plan and the provisions of this Ordinance. If the request for a [certificate of completion](#) is denied, the applicant shall be notified in writing of the denial and the reasons for denial.

Sec. 13.11 Fees.

Any application for an amendment to this Ordinance, site plan review, review of a conditional land use proposal, review of a planned development proposal, request for a variance, request for inspection, request for a building or zoning permit, request for a [certificate of completion](#), or other request for other action pursuant to the regulations set forth in this Ordinance shall be subject to and accompanied by a fee as established by the Council. Such fees, including any outside consultant fees and all administrative and legal costs pertaining to the review and processing of any application, shall be collected in advance of any reviews, inspections, or issuance of any permits or approvals. Upon notification of deficient payment of fees, the Zoning Officer shall cause any permits to be suspended and reject applications for new permits directly associated with the project. The assessment and payment of application fees does not affect the requirements for a performance guarantee as specified in this Ordinance. There shall be no fee in the case of applications filed in the public interest by a municipal department or Village official.

Sec. 13.12 Violations/Penalties.

- (a) *Public Nuisance.* Buildings erected, altered, razed or converted (including tents, mobile homes, and trailer coaches), or uses carried on in violation of any provision of these regulations are hereby declared to be a nuisance per se, and shall be subject to abatement or other action by a court of appropriate jurisdiction.
- (b) *Violation.* Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement of this Ordinance by an enforcement official shall be deemed in violation of this Ordinance.
- (c) *Penalties.* Any violation of these regulations shall constitute a first degree misdemeanor. Any person who is convicted shall be subject to punishment by a fine not exceeding 1,000 dollars or by imprisonment not exceeding 180 days for each offense, or both, at the discretion of the Court. Each day a violation occurs or continues shall constitute a separate offense. Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any violation of these regulations may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator. The imposition of any sentence shall not exempt the offense from meeting compliance with the requirements of this Ordinance.
- (d) *Authority to Pursue Court Action.* The Zoning Officer is hereby empowered to

commence and pursue any and all necessary and appropriate actions or proceedings in the Court of Common Pleas, or any other court having jurisdiction, to restrain or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy, or abate such noncompliance or violation. Any person aggrieved or adversely affected by such non-compliance or violation may institute suite or join the Village in such an action to abate the violation.

- (e) *Other Remedies.* The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the Village to initiate proceedings in an appropriate court of law to restrain or prevent any non-compliance with any provisions of this Ordinance, or to correct, remedy, or abate such non-compliance.
- (f) *Rights and Remedies Preserved.* Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver nor prevent any further prosecution of violations of this Ordinance.

Sec. 13.13 Records.

Permanent and current records of this Ordinance, including but not necessarily limited to, all maps, amendments, variances, appeals, conditional land uses, certificates of completion, and related applications, shall be maintained in the office of the Village official having jurisdiction. Every rule or regulation, decision, finding of fact, condition of approval, resolution, or other transaction of business of the Commission or Board shall be duly recorded and filed in the public records of the office of the Clerk-Treasurer. A copy of any application, permit, certificate, transcript of a public meeting, or other item of the public record, may be obtained from the appropriate Village office upon payment of copying costs.