CHAPTER 1107
Administration and Enforcement

1107.01 Zoning Administrator; appointment.
1107.02 Zoning certificates.
1107.03 Board of Zoning Appeals
1107.04 Planning Commission.
1107.05 Role of Council in zoning matters.
1107.06 Remedies.
1107.07 Effective dates of decision, orders and permits.
1107.99 Penalty.

1107.01 ZONING ADMINISTRATOR; APPOINTMENT.

The Mayor shall appoint a qualified person to serve as Zoning Administrator, subject to the approval of Village Council, who shall:

(a) Administer and enforce the Zoning Ordinance;
(b) Maintain the Zoning District Map;
(c) Issue zoning certificates;
(d) Attend all meetings of the Board of Zoning Appeals and Planning Commission;
(e) Inspect structures and land to determine compliance with this Zoning Ordinance and the Zoning District Map;
(f) Notify violators of this Zoning Ordinance in writing, stating the nature of violations and the procedure for requesting an Opinion from the Board of Zoning Appeals under 1107.02(e). Notification shall be complete upon personal delivery, or mailing, of the notice to the owner of the property at his last known address, or where no address is known, by posting the notice in a conspicuous place on the property. Failure of the Zoning Administrator to notify the owner of the property of a violation is not grounds for dismissal of a prosecution based on such a violation.
(g) Maintain accurate records of all amendments made to this Zoning Ordinance or the Zoning District Map, all conditional use permits and variances granted, and all zoning certificates and notices of violation issued;
(h) Issue conditional use permits after compliance with Chapter 1111, and variances after compliance with Chapter 1113 or Chapter 1108;
(i) Recommend to the Planning Commission revocation of conditional use permits where s/he believes terms of permits have been violated;
(j) Issue certificates of appropriateness after compliance with Chapter.

1107.02 ZONING CERTIFICATES.

(a) Zoning Certificate Required.
  (1) No structure shall be placed upon or moved onto land, erected, constructed, reconstructed, converted, enlarged or structurally altered, nor shall any work be started upon same, nor shall such a building be occupied or used in whole or in part for any purpose, until a zoning certificate has been issued establishing compliance with the development standards and use requirements of this Zoning Ordinance.

(2) No material change shall be made in the use of any land or structure or part of a structure until a zoning certificate has been issued establishing that such change in use is a permitted use within the zoning district where the land or structure is located.

(b) Application Fee. In order to defray the cost of the examination of plans and inspections necessary to provide for compliance with this Zoning Ordinance and the issuance of zoning certificates, an applicant seeking a zoning certificate shall pay a fee in accordance with the fee schedule adopted and approved by Village Council. All fees are non-refundable.

(c) Application for Zoning Certificate. Application for a zoning certificate shall be made to the Zoning Administrator on a form signed by the applicant stating that the information provided is accurate and truthful.

(1) An applicant for a zoning certificate required by subsection (a)(1) hereof shall provide with his application:

A. The name, address and telephone number of the applicant, and of the owner of the property;

B. An accurate legal description of the property;

C. The existing use and proposed use of the property and the zoning district in which the property is located;

D. Two copies of the plot plan drawn to scale and showing

1. The shape and dimensions of the property with front, rear, side yard dimensions;
2. The location and dimensions of existing structures and proposed structures or alterations;
3. Means for traffic access and provisions for parking;
4. The location and description of trees and shrubs;
5. Any additional information required by the Zoning Administrator to determine compliance with this Zoning Ordinance or the Zoning District Map.

(2) An applicant for a zoning certificate required by subsection (a)(2) hereof shall provide with his application:

A. The name, address, and telephone number of the applicant and of the owner of the property;

B. An accurate legal description of the property;

C. The existing use and proposed use for the property and the zoning district in which the property is located;

D. Means of traffic access and provisions for parking.

(d) Approval or Disapproval of Application.

(1) The Zoning Administrator shall either approve or disapprove all applications for zoning certificates within 15 days of their filing.

(2) A zoning certificate is valid for 12 months from the date it is issued. Authority to proceed pursuant to a zoning certificate shall lapse unless the action authorized by the zoning certificate is commenced within 12 months and completed within 18 months after the zoning certificate is issued, unless otherwise specifically provided on the zoning certificate.

(3) Disapproval of an application for a zoning certificate shall be accompanied by written findings of fact by the Zoning Administrator

explaining the reasons for disapproval. The decision of the Zoning Administrator shall be delivered by certified mail or personal service to the applicant. Except as provided in subsection (d)(4) hereof, an applicant may appeal the decision of the Zoning Administrator to the Board of Zoning Appeals. Notice of appeal must be filed with the Zoning Administrator within 15 days after the decision of the Zoning Administrator is mailed by certified mail or personal service to the applicant at the address listed on the application.

(4) The Zoning Administrator shall disapprove any application which s/he determines contains information which is clearly and demonstrably false. There is no administrative appeal from such disapproval. Should the applicant file an amended application containing correct information, it shall be treated as a new application and the Zoning Administrator shall collect the filing fee established by this section.

(e) Request for Opinion. An owner of property, upon receiving a notice of an alleged violation of this Zoning Ordinance issued pursuant to Section 1107.01(f) may request an opinion from the Board of Zoning Appeals as to the existence of a violation of this Zoning Ordinance. A request for an opinion must be filed in writing with the Zoning Administrator within 15 days after the Zoning Administrator has completed notification pursuant to Section 1107.01(f) and the filing of a request for an advisory opinion stays any prosecution for the alleged violation.

(Ord. 2006-13. Passed May 1, 2006.)

1107.03 BOARD OF ZONING APPEALS.

(a) Organization. The Board of Zoning Appeals shall consist of five (5) members, the Mayor, one member of Council to be elected thereby at an organizational meeting of Council for the remainder of his or her term with Council and three (3) citizens of the Village to be appointed by the Mayor for terms of six (6) years each. The terms of the citizen members shall be staggered so that only one (1) citizen member's appointment expires every two (2) years. All members shall be electors of the Village.

The Board of Zoning Appeals may adopt rules and regulations governing the conduct of its affairs that are consistent with this Zoning Ordinance. All rules and regulations shall be filed with the Clerk of Council and made available for public inspection. The Board of Zoning Appeals shall annually choose from its membership a chairman and vice-chairman.

(b) Meetings. The Board of Zoning Appeals shall meet at the call of the chairman or a majority of the members of the Board of Zoning appeals or upon a schedule determined by the Board of Zoning Appeals. All meetings are public meetings and records of all proceedings shall be kept including the vote of each member on each issue, members present or absent, the facts of each matter considered and other minutes of the meeting. All records of proceedings shall be made available for public inspection, and copies shall be provided by the secretary of the Board of Zoning Appeals to each member of Council.

The Chairman, or in his absence, the vice-chairman, shall advise Council by letter if any Board of Zoning Appeals member has absented himself from all meetings held during any period of ninety consecutive days or who has absented himself from a total of one-fourth of the regular meetings during a calendar year. Council shall consider removing such member as permitted under Ohio Revised Code.

(c) Procedure. Three members shall constitute a quorum of the Board of Zoning Appeals and the concurrence of three members is required for approving a variance or reversing a decision of the Zoning Administrator. All other matters may be decided by a majority of those present.

(d) Powers and Duties. The Board of Zoning Appeals shall:

(1) Determine appeals from decisions of the Zoning Administrator disapproving applications for zoning certificates or applications for sign permits.

(2) Issue opinions when requested pursuant to Section 1107.02(e). An advisory opinion finding the existence or nonexistence of a violation of this Zoning Ordinance shall be binding unless reversed on appeal.

(3) Grant or deny applications for variances from the development standards of this Zoning Ordinance. The Board of Zoning Appeals may attach such binding conditions and reservations to the variance as it deems necessary to satisfy the objectives of this Zoning Ordinance.

(4) Upon request to Council from determinations under subsections (d)(1), (2) or (3) hereof, issue written findings of fact.

(5) Grant temporary use permits as defined in Section 1105.10300.
(Ord. 2006-13. Passed May 1, 2006.)

1107.04 PLANNING COMMISSION.

(a) Organization. The Planning Commission shall consist of five (5) members, the Mayor, one member of Council to be elected thereby at an organizational meeting of Council for the remainder of his or her term with Council and three (3) citizens of the Village to be appointed by the Mayor for terms of six (6) years each. The terms of the citizen members shall be staggered so that only one (1) citizen member's appointment expires every two (2) years. All members shall be electors of the Village.

The Planning Commission may adopt rules and regulations governing the conduct of its affairs that are consistent with this Zoning Ordinance. All rules and regulations shall be filed with the Clerk of Council and made available for public inspection. The Planning Commission shall choose from its membership a chairman and a vice-chairman at the first meeting of the Planning Commission in January of every year.

(b) Meetings. The Planning Commission shall meet at the call of the Village Administrator or his designee, upon a schedule determined by the Planning Commission, or upon the written call of two or more of its members. Such a written call by members shall be issued at least 24 hours prior to the meeting stated in the call, and shall be delivered to all members of the Planning Commission, the Village Administrator, and the Zoning Administrator, or delivered to their place of residence. No matters other than those set out in the written call shall be considered at the meeting.

All meetings requiring formal action shall be open to the public and records of all proceedings shall be kept including the vote of each member on each issue, members present or absent, the facts of each matter considered, and other minutes of the meeting. All records of proceedings shall be made available for public inspection, and copies shall be provided by the secretary of the Planning Commission to each member of Council. The chairman, or in his absence the vice-chairman, shall advise Council by letter if any Planning Commission member has absented himself from all meetings held during any period of 90 consecutive days or who has absented himself from a total of one-fourth of the regular meetings during a calendar year. Council shall consider removing such a member pursuant to Ohio Revised Code.

(c) Procedure. Three members shall constitute a quorum of the Planning Commission and the concurrence of three members is required for any action permitted by law or ordinance.

(d) Powers and Duties. The Planning Commission shall:

(1) Review proposed amendments to this Zoning Ordinance or the Zoning District Map and make recommendations to Council.

(2) Grant or deny applications for conditional use permits.

(3) Review, approve or disapprove subdivision plats, development plans for Planned District applications and site plans for Standard District applications, with reference to the provisions of this Zoning Ordinance and the subdivision regulations of the Village. Actions of the Planning Commission approving or disapproving Subdivision Plats shall not be the subject of appeal to Council. Council may, however, upon its own initiative review such actions pursuant to Section 1107.06(d).

(4) Revoke previously issued conditional use permits upon finding a violation of the terms of such permits.

(5) Adopt and/or recommend Planning studies and reports.

(6) Grant or deny variances as part of site plan review process pursuant to Chapter 1108.

(Ord. 2006-13. Passed May 1, 2006.)

1107.05 ROLE OF COUNCIL IN ZONING MATTERS.

Council shall:

(a) In appropriate circumstances, consider removing a member of Planning Commission pursuant to the criteria and procedures set forth in Ohio Revised Code.

(b) Act upon recommendations of the Planning Commission to amend this Zoning Ordinance or the Zoning District Map.

(c) When it deems appropriate, initiate amendments to this Zoning Ordinance or the Zoning District Map and submit its recommendations for amendments to the Planning Commission.

(d) (1) Upon determining that it will consider an appeal, decide appeals of decisions of the boards and commissions identified below. If during consideration of such an appeal Council finds that the facts presented by the appealing party differ materially from the written findings of fact issued by the Planning Commission or the Board of Zoning Appeals, it may return the matter before it on appeal to the commission or board from which it was appealed for further consideration.

A. Board of Zoning Appeals - The following decisions of the Board of Zoning Appeals are appealable to Council:

1. Affirmance or reversal of decisions of the Zoning Administrator in disapproving applications for zoning certificates or applications for sign permits.

2. Advisory opinions on alleged violations of this Zoning Ordinance.

3. Grant or denial of variances from the development standards of this Zoning Ordinance.

4. Grant or denial of applications for the expansion, substitution or reconstruction of a non-conforming use.

B. Planning Commission - The following decisions of the Planning Commission are appealable to Council:

1. Approval, approval with modifications, or disapproval of applications for site plans.
2. Grant or denial of conditional use permits
3. Grant or denial of revocation of previously issued conditional use permits.
4. Approval or disapproval of variances in connection with subdivision approvals or site plan review.
5. Disapproval or approval with modifications of Development Plans for developments in planned districts.

(2) An appeal of any decision which is appealable under subsection (d)(1) above may be filed by:

A. Any party aggrieved or affected by the decision;
B. The administrative staff of the Village; or
C. A member of Council.

The appeal must be in writing and filed with the Village Administrator, no later than ten (10) days after the decision complained of is issued; or where there has been a failure to issue a decision, after 90 days has transpired for the Planning Commission or Board of Zoning Appeals to issue a decision required of it to be issued. The appeal must provide a statement of reasons for the appeal including any alleged errors.

(3) The Village Administrator shall submit the appeal to Council no later than the next regular meeting of Council following the filing of the appeal. In determining whether to hear the appeal, Council may clarify the basis for the appeal by discussing the matter and/or asking questions of the applicant and/or appealing party. The concurrence of a majority of the members elected or appointed to Council is required on the question of whether the appeal shall be considered. Should such a majority not approve consideration of the appeal, the decision of the board or commission is deemed final and binding. If Council approves consideration of the appeal, Council shall hear the appeal at its next regular meeting. At the hearing of the appeal before Council, the person(s) filing the appeal may be required to present the appeal. The applicant and persons both in favor and opposed to the appeal, including members of the board or commission whose decision was appealed, shall be granted the opportunity to address Council, provided input shall be limited to 15 minutes to those in favor of the appeal and 15 minutes to those opposed, unless extended by Council. The concurrence of two-thirds of the members elected or appointed to Council is required for Council to reverse or modify a decision of the Planning Commission or Board of Zoning Appeals, and absent such a two-thirds majority, the decision of the commission or the board is affirmed. All such appeals shall be decided within 30 days after Council approves consideration of the appeal.

(Ord. 2006-13. Passed May 1, 2006.)

1107.07 REMEDIES.

(a) In the event of violation of any regulation, provision, amendment of or supplement to this Zoning Ordinance or any lawful order issued pursuant to the terms of this Zoning Ordinance, or in the event of the imminent threat thereof, the Village may petition any court of competent jurisdiction to enjoin a threatened violation or to terminate a continuing violation. Under said circumstances, the violator(s) shall be liable to the Village for any attorneys' fees or costs incurred by the Village in seeking any injunctive or other relief necessary to compel compliance with this Zoning Ordinance or any lawful order issued pursuant to its terms.

(b) An owner of any contiguous or neighboring property who is or would be damaged by such violation described in subsection (a) hereof, may also petition any court of competent jurisdiction to enjoin a threatened violation or to terminate a continuing violation.
(Ord. 2006-13. Passed May 1, 2006.)

1107.08 EFFECTIVE DATES OF DECISION, ORDERS AND PERMITS.

No zoning certificate, conditional use permit, variance, temporary use permit, subdivision plat approval, development plan approval, site plan approval, decision or order of the Zoning Administrator, Board of Zoning Appeals, and Planning Commission, appealable under this Part Eleven, shall take effect until ten days after its issuance or entry of such decision or order and during the pendency of an appeal regarding such entry, decision or order.
(Ord. 2006-13. Passed May 1, 2006.)

1107.99 PENALTY.

Any person, firm, corporation, partnership, or association violating any regulation, prohibition or provision of this Zoning Ordinance, or failing to obey any lawful order of the Zoning Administrator issued pursuant to the provisions of this Zoning Ordinance may be fined up to one hundred dollars ($100.00). Each day during which such violation continues may be deemed a separate offense.

CHAPTER 1108
Site Plan

1108.01 Purpose and intent.
1108.02 Site plan required.
1108.03 Definitions.
1108.04 Minor site plan.
1108.05 Major site plan.
1108.06 Design standards.

1108.01 PURPOSE AND INTENT.

The requirements provided for herein are intended to manage and direct the built environment as private investment decisions are made within the public planning and zoning arena to promote good planning and site development, to reduce and mitigate environmental and service impacts resulting from development, and to protect the public health, safety, and general welfare.
(Ord. 2006-13. Passed May 1, 2006.)

1108.02 SITE PLAN REQUIRED.

Prior to issuance of a zoning certificate for all developments other than single family residential, two-family residential and developments located within a planned zoning district, a site plan as defined herein shall be submitted to the Village of Centerburg for review and approval.
(Ord. 2006-13. Passed May 1, 2006.)

1108.03 DEFINITIONS.

The following definitions apply to this chapter.

(a) Development - The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; the construction, expansion or modification of any parking areas, loading areas, access drives or other paved surfaces; any mining, excavation, landfill or other modification of the natural landscape; any changes to approved landscape plans including plant materials, grading, walls or fences.

(b) Site Plan - A plan, to scale, that illustrates the proposed physical changes for parcel or parcels of land.

(c) Major Site Plan - A plan for a development which meets one of the following definitions:

(1) A development involving any new construction other than one or two family residential structures;

(2) A development involving an addition of more than 20 percent of the gross floor area of a structure or more than 5,000 square feet of impervious surface;

(3) A development involving more than 10,000 square feet of impervious surface;

(4) A development impacting or adjacent to a historic, archaeological, or environmentally sensitive feature;

(5) A development impacting a non-residential site adjacent to a residential zoning district;

(6) A development which conflicts with an adopted Village plan;

(7) A development of a non-conforming site or site which does not meet the development standards of the zoning district in which it is located.
(8) A development which generates sufficient volumes of traffic, unusual patterns, or types of traffic that result in lowering the level of service of affected streets or intersections; or
(9) Other unusual or unique impacts which, in the professional opinion of the Zoning Administrator, warrant public review.

(d) Minor Site Plan - A plan for a development which does not qualify as a Major Site Plan. (Ord. 2006-13. Passed May 1, 2006.)

1108.04 MINOR SITE PLAN.

(a) Application. An application for a minor site plan shall be filed by the applicant with the authorization of the property owner on a form provided by the Zoning Administrator. In order to defray the cost of examination of plans and inspection, the applicant shall pay a fee in accordance with the fee schedule adopted and approved by Village Council.

(b) Submittal Requirements.
(1) A sketch plan showing boundary information, existing and proposed development, existing and proposed easements, rights-of-way, and utilities, including storm water drainage.
(2) The sketch plan shall indicate buildings, service areas, parking, fencing, landscaping, and all required setbacks.
(3) All parking and loading areas shall be shown, including typical dimensions of parking stalls, aisles and loading spaces.
(4) All driveways and curb cuts shall be indicated, including major aisles and service routes. Pedestrian circulation shall also be indicated.
(5) Handling of all waste and refuse materials shall be indicated.
(6) Proposed landscaping shall be shown, as per the zoning code.
(7) Signage may be required to be shown, as per the zoning code.
(8) All exterior lighting shall be shown, including parking lot, pedestrian, and building accent lighting. Lighting intensity and installation height shall be indicated.
(9) Exterior building design and surface treatments shall be indicated, including building material and color. Color and material samples shall also be made available for inspection.

(c) Procedure.
(1) Any applicant requesting approval of a minor site plan as defined herein shall submit to the Zoning Administrator four copies of the application, including the items specified in 1108.04(b) Submittal Requirements and the prescribed fee.
(2) Within 15 days of filing a complete application, the Zoning Administrator shall approve the application for site plan review based upon adopted regulations and standards, design guidelines contained herein or determine that the application is a major site plan. If the application is determined to be a major site plan, the Zoning Administrator will schedule a review by Planning Commission.

(d) Action and Effect. Upon approval of a minor site plan, the Zoning Administrator shall issue a zoning certificate. All work permitted under the zoning certificate shall be

commenced within 12 months from the date it is issued, and all work shall be completed within 18 months, unless otherwise provided in the zoning certificate. Authority to proceed pursuant to a zoning certificate shall lapse unless the action authorized by the zoning certificate is commenced within 12 months after the zoning certificate is issued. (Ord. 2006-13. Passed May 1, 2006.)

1108.05 MAJOR SITE PLAN.

(a) Application. An application for a major site plan shall be filed by the applicant with the authorization of the property owner on a form provided by the Zoning Administrator. Nothing shall prevent the concurrent submittal of an application for a major site plan with the submittal of an application for a zoning map amendment. Approval of a major site plan submitted concurrently with an application for zoning map amendment may not become effective until the zoning map amendment application has been approved by Council. In order to defray the cost of examination of plans and inspection, the applicant shall pay a fee in accordance with the fee schedule adopted and approved by Village Council.

(b) Submittal Requirements.

(1) A survey showing boundary information, existing and proposed development, existing and proposed easements, rights-of-way, and utilities, including storm water drainage.

(2) The site plan shall indicate buildings, service areas, parking, signage, fencing, landscaping, and all required setbacks.

(3) All parking and loading areas shall be shown, including typical dimensions of parking stalls, aisles and loading spaces.

(4) All major circulation routes, including arterials, adjacent curb cuts, collector and local streets, driveways and curb cuts, and including major aisle ways and service routes shall be indicated. Major pedestrian circulation routes shall also be indicated, including dimensions of path and pedestrian crossings, etc., plus any attempts at separating vehicular and pedestrian/recreation movement.

(5) Handling of all waste and refuse materials shall be indicated.

(6) Proposed landscaping shall be shown, as per a landscape plan required by Chapter 1173.

(7) All signage and graphics may be required to be shown, as per Chapter 1181.

(8) All exterior lighting shall be shown, including parking lot, pedestrian, and building accent lighting. Lighting intensity and installation height shall be indicated.

(9) Exterior building design and surface treatments shall be indicated, including building material and color. Color and material samples may also be requested.

(10) A list of all owners of property including their mailing addresses, within, contiguous to, or directly across the street or streets from the property.

(11) A general narrative describing any variances requested to the development standards of the Planning and Zoning Code and demonstrating how the variances will result in the best possible development for the site.

(12) Any additional information as may be required by the Zoning Administrator or the Planning Commission.

(c) Procedure.

(1) Any applicant requesting approval of a major site plan as defined herein, shall submit to the Zoning Administrator 15 copies of the application, including the items specified in 1108.05(b) Submittal Requirements, the prescribed fee, and any other information as determined appropriate by the Planning Commission, in accordance with the submission schedule of the Planning Commission.

(2) It shall be the duty of the Planning Commission to review the major site plan and determine whether it complies with the adopted regulations and standards, design guidelines contained herein, and accepted planning principles; and conduct a public hearing to the extent the applicant seeks a variance from the development standards of this Zoning Ordinance. Such determination shall be made at the first regular meeting of the Planning Commission in accordance with the submission and hearing schedule established by the Commission.

(3) The Planning Commission shall either approve, approve with modification, or disapprove an application for a major site plan.

(d) Modifications of the Major Site Plan.

(1) Development shall be in conformance with the Site Plan and construction of site improvements must be commenced within two years of Planning Commission approval; otherwise no development of the land shall take place until a new Site Plan is approved pursuant to this Section.

(2) Approval of the Planning Commission is required before any modification of the approved Site Plan may be made. Development of land shall not proceed prior to final approval of the Site Plan. Any development undertaken without such final approval is in violation of this zoning ordinance and is an abatable nuisance.

(e) Variances from Development Standards. The Planning Commission may approve variances from the Development Standards of the Planning and Zoning Code as part of the Site Plan. These variances shall be consistent with the intent of the Development Standards of the Planning and Zoning Code to insure a higher quality development. No action by the Board of Zoning Appeals is required for these variances.

(1) The Zoning Officer shall set a public hearing to review any variances requested as part of the site plan review, which hearing may be set and incorporated in the Procedures set forth in subsection (c).

A. Notice of the hearing before the Planning Commission shall be published once in one or more newspapers of general circulation in the Village, at least seven days prior to the date fixed for the hearing. The notice shall include the place, time and date of the hearing, and the location of the property. Failure of a newspaper to accurately or timely publish a properly submitted notice does not invalidate the granting or denial of a variance.

B. A notice containing the information required by subsection (e)(1)(A) hereof shall be sent by first class mail to all property

owners listed, pursuant to Section 1108.05(b)(10) not less than seven days prior to the date fixed for the hearing. Failure of any such property owners to receive mail notice does not invalidate the granting or denial of a variance.

(f) Appeal. Decisions of the Planning Commission in approving, approving with modifications or disapproving applications for site plans are appealable to Village Council in accordance with the provisions of Section 1107.06(d).
(Ord. 2006-13. Passed May 1, 2006.)

1108.06 DESIGN STANDARDS.

The following design standards are provided as: (1) guidelines for consideration by applicants in preparing site plans; and (2) as decision considerations by the Planning Commission in reviewing site plans.

(a) Purpose. The purpose of good site design is to create a functional and attractive development, to minimize adverse environmental and physical impacts, and to ensure a project will be an asset to the Village of Centerburg. To promote this purpose, the site plan shall conform to the design standards and related goals and objectives of the Village of Centerburg, which together are designed to result in a well-planned community without adding unnecessarily to development costs.

(b) Site Analysis. An analysis may be required of the environmental and built characteristics of the development site, including, but not limited to, site context, geology and soils, topography, drainage, climate, ecology, vegetation; existing structures, road networks, and access; visual features and urban design; and past and present use of the site.

(c) Site Design.

(1) Design of the development shall take into consideration all existing local plans for the Village of Centerburg and the Development Standards of the Planning and Zoning Code.

(2) Development of the site shall be based upon the site analysis. To the maximum extent possible, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.

(3) The following specific areas shall be preserved to the extent possible as open space:

A. Unique and/or fragile areas, including wetlands;

B. Significant trees or stands of trees;

C. Property within the 100-year floodplain as mapped by the National Flood Insurance Program;

D. Poorly drained soils.

E. Steep slopes in excess of 20 percent as measured over a 10-foot interval unless appropriate engineering measures concerning slope stability, erosion, and resident safety are taken;

F. Habitats of endangered wildlife, as identified by the State of Ohio, Department of Natural Resources, Natural Heritage Program.

G. Historically significant structures, as identified by local officials, Ohio Historic Inventory, or National Register of Historic Places/Districts.

(4) The development shall be laid out to avoid adversely affecting groundwater and aquifer recharge; to reduce cut and fill; to prevent flooding; to provide adequate access to lots and sites; and to mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities on neighboring properties.

(5) The design treatment of the site and all proposed structures shall ensure compatibility and sensitivity to adjacent properties and structures.

(Ord. 2006-13. Passed May 1, 2006.)

CHAPTER 1109
Amendments

1109.01 Amendment of Zoning Ordinance and Zoning District Map.
1109.02 Form of application for amendment.
1109.03 Review procedure.
1109.04 Action of Council on amendments.

CROSS REFERENCES
Council may amend districting or zoning - see Ohio R.C. 713.10
Council to hold public hearing - see Ohio R.C. 713.12
Zoning District Map changes - see PRELIM. Table I

1109.01 AMENDMENT OF ZONING ORDINANCE AND ZONING DISTRICT MAP.

The provisions of this Zoning Ordinance, the district boundaries as established by the Zoning District Map, and the provisions of the Village's Subdivision and Development Regulations may be amended to meet changing conditions or to better conform to good zoning practices. Amendments may be initiated:

(a) By request of the Planning Commission directed to Council to prepare an ordinance embodying an amendment to this Zoning Ordinance, the Zoning District Map, or the Subdivision Regulations as recommended by the Planning Commission. Council shall either direct preparation of the ordinance requested or deny the request of the Planning Commission.

(b) By action of Council directing the preparation of an ordinance to amend this Zoning Ordinance, the Zoning District Map, or the Subdivision Regulations.

(c) By the filing of an application by one or more owners of property requesting that the Zoning District Map for the area in which the applicants own property be amended. (Ord. 2006-13. Passed May 1, 2006.)

1109.02 FORM OF APPLICATION FOR AMENDMENT.

(a) An application by property owners pursuant to Section 1109.01(c) for a change of district boundaries shall be filed in writing with the Zoning Administrator. The applicant shall pay a fee in accordance with the schedule adopted and approved by Village Council to defray the cost of advertising, staff review and other costs incidental to the application. The application shall contain the following:

(1) Names, addresses and phone numbers of the applicants and owners.

(2) A current and accurate legal description of the area for which the amendment is sought.

(3) The existing use and zoning district and the proposed use and zoning district for the property within the area.

(4) A list of all property owners within 200 feet from the area sought to be zoned, together with their mailing addresses.

(5) Any deed restrictions, easements, covenants and encumbrances to be imposed to control the use, development and maintenance of the area to be zoned.

(6) In appropriate cases, at the request of the Zoning Administrator of the Planning Commission, an estimate of the utility requirements of the area, should the amendment be adopted, including sewer, water, refuse and electricity.

(7) In appropriate cases, at the request of the Zoning Administrator of the Planning Commission, an estimate of potential traffic generation in the area should the amendment be adopted.

(8) A vicinity map drawn to reasonable scale, showing property lines, ownership, street addresses when known, streets, existing and proposed zoning within the area sought to be zoned. The vicinity map shall also depict all land within 300 feet of the boundaries of the area to be zoned, showing property lines, ownership, streets and street addresses when known, and shall be subject to later amendments at the request of the Planning Commission to supply such additional information as it may require.

(b) When a amendment is initiated by the Planning Commission or Council pursuant to Section 1109.01(a) or (b), a copy of the proposed ordinance shall be filed with the Zoning Administrator. (Ord. 2006-13. Passed May 1, 2006.)

1109.03 REVIEW PROCEDURE.

(a) Hearing Before and Recommendations of Planning Commission. The Planning Commission shall review during public hearings all proposed amendments to this Zoning Ordinance or the Zoning District Map initiated pursuant to Section 1109.01(a), (b) or (c) and make recommendations to Council on each proposed amendment pursuant to the following procedures:

(1) Setting hearing date. Upon the initiation of an amendment to this Zoning Ordinance or the Zoning District Map, the secretary of the Planning Commission shall promptly fix a date for a public hearing before the Planning Commission for review of the proposed amendment.

(2) Publication of notice of hearing. Notice of the hearing before the Planning Commission shall be published once in one or more newspapers of general circulation in the Village in conformance with the requirements of the Ohio Revised Code or at least thirty (30) days in advance of the hearing, whichever requirements are greater. The notice shall include the place, time and date of the hearing and the nature of the proposed amendment. Failure of a newspaper to accurately or timely publish a properly submitted notice does not invalidate adoption of the proposed amendment as an amending ordinance.

(3) Notice to property owners. A notice containing the information required by subsection (a)(2) hereof shall be sent by first class mail to all property owners within, contiguous to or directly across a street from the area which is the subject of the proposed amendment, not less than twenty (20) days prior to the date fixed for the initial hearing, to the addresses of such owners appearing on the county auditor's current tax list or the treasurer's mailing list. Failure of any such property owners to receive mail notice does not invalidate adoption of the proposed amendment as an amending ordinance. Further, the Zoning Administrator shall post a sign at or near the location of the area, which is the subject of the proposed amendment. Failure of the Zoning Administrator to post a sign or to post a sign in a specific location does not invalidate adoption of the proposed amendment as an amending ordinance.

(4) Notice to State Director of Transportation. The secretary of the Planning Commission shall give notice by registered or certified mail to the State Director of Transportation of the initiation of any proposed amendment that:

A. Affects any land within 300 feet of a proposed new highway; or

B. Affects any land within 300 feet of any proposed changes to a highway as described in certification to local officials by the State Director of Transportation; or

C. Affects any land within 500 feet from a proposed intersection of such a new highway and any existing public road or highway.

D. If the Director of Transportation's response is negative, the Planning Commission will stay their proceedings until the reason for the negative response is resolved.

(5) Hearing. In reviewing the proposed amendment and arriving at its recommendation, the Planning Commission shall consider the following factors:

A. Compatibility of the amendment sought with the use of adjacent land, adjacent zoning and with land use plans for the general area.

B. Impact of the adoption of an amendment sought on motor vehicle access and traffic flow in the general area.

C. Impact of the adoption of the proposed amendment upon the public health, safety and general welfare of the residents of the Village.

D. Impact of the adoption of the proposed amendment on available public facilities, general expansion plans of the Village, and the Village's schedule for improvement of capital facilities.

(6) Recommendations. No later than 30 days following the last public hearing on the proposed amendment the Planning Commission shall make one of the following recommendations to Council:

A. That the proposed amendment be adopted.

B. That the proposed amendments be adopted with modifications recommended by the Planning Commission.

C. That the proposed amendment not be adopted.

(b) Hearings Before and Consideration of Council. Council shall consider at public hearings all proposed amendments to this Zoning Ordinance and the Zoning District Map and the recommendations of the Planning Commission concerning proposed amendments, and act on the proposed amendments and recommendations, pursuant to the following procedures:

(1) Setting hearing date. Following receipt of the recommendation of the Planning Commission, and upon introduction of the proposed amendment at a regular meeting of Council as an amending ordinance, Council shall promptly fix a date for a public hearing before Council for consideration of the amending ordinance. Such hearing shall be set on a date so as to permit notice by publication at least 30 days prior to the date fixed for the hearing. During such 30 days, the text or copy of the text of such ordinance, together with the maps or plans or copies thereof, forming part of or referred to in such ordinance and the maps, plans and reports submitted by the planning commission shall be on file for public examination in the office of the clerk.

(2) Publication of notice of hearing. Notice of the hearing before Council shall be published once in one or more newspapers of a general circulation in the Village at least 30 days prior to the date fixed for the hearing. The notice shall include the place, time and date of the hearing and the nature of the amending ordinance. Failure of a newspaper to accurately or timely publish a properly submitted notice shall not invalidate adoption of the amending ordinance.

(3) Notice to property owners. If the Ordinance, measure, or regulation intends to re-zone or redistrict ten or less parcels of land as listed on the tax duplicate, written notice containing the information required by subsection (b)(2) hereof shall be sent by first class mail to all property

owners within, contiguous to or directly across a street from the area which is the subject of the proposed amendment, not less than 20 days prior to the date fixed for the hearing. Failure of any such property owners to receive mail notice shall not invalidate adoption of the amending ordinance.

(4) Hearing. At the time fixed for the public hearing, Council shall allow testimony from all persons interested in the proposed amendment. Council may consider the proposed amendment notwithstanding the failure of the Planning Commission to make one of the recommendations required by Section 1109.03(a)(6). (Ord. 2006-13. Passed May 1, 2006.)

1109.04 ACTION OF COUNCIL ON AMENDMENTS.

At the conclusion of public hearings, the roll shall be called of members of Council on the passage of the amending ordinance. If the ordinance does not differ from the recommendation of Planning Commission, the votes of a majority of the members elected to Council shall be required for passage. If the ordinance differs from the recommendation of the Planning Commission, the votes of three-fourths of the members elected to Council shall be required for passage of the amending ordinance; **provided, however, a three-fourths vote shall not be required if the differences from the recommendation of Planning Commission relate exclusively to the Preliminary Plan and/or Development Standards Text associated with a request for rezoning to a Planned District.** (Ord. 2006-13. Passed May 1, 2006.)

CHAPTER 1111
Conditional Uses

1111.01 Purpose.
1111.02 Application for permit.
1111.03 Criteria for approval.
1111.04 Procedure.
1111.05 Violation of findings of fact; permit revocation; appeal.

CROSS REFERENCES
Conditional use defined - see P. & Z. 1105.25
Issuance - see P. & Z. 1107.01, 1107.04

1111.01 PURPOSE.

Under some unusual circumstances a use which more intensely affects an area than those uses permitted in the zoning district in which it is located may nevertheless be desirable and also compatible with permitted uses within the zoning district if that use is properly controlled and regulated. The Planning Commission may allow such a use to exist as a conditional use where these unusual circumstances exist and where the conditional use will be consistent with the general purpose and intent of this Zoning Ordinance.
(Ord. 2006-13. Passed May 1, 2006.)

1111.02 APPLICATION FOR PERMIT.

(a) Application to be Made. Written application for a conditional use permit shall be made to the Planning Commission and filed with the Zoning Administrator who shall transmit the application to the Planning Commission. The application shall be signed by the owner of the property affected and shall state the information provided is accurate and truthful.

(b) Application Fee. The applicant shall pay a fee in accordance with the schedule adopted and approved by Village Council to cover advertising, review, publishing and reporting the proceedings of the Planning Commission.

(c) Contents of Application. The application shall include:
- (1) The name, address and telephone number of the owner of the property;
- (2) An accurate legal description of the property;
- (3) The existing use, proposed conditional use and the zoning district in which the property is located;
- (4) A statement of the relationship and general compatibility of the proposed use to adjacent land use in terms of traffic, parking and noise and other nuisances;
- (5) A list of all owners of property, including their mailing addresses, which is contiguous to or directly across the street(s) from the property;
- (6) Fifteen (15) copies of a plot plan showing:
  - A. Boundaries and dimensions of the property and the size and location of all proposed or existing structures.
  - B. Traffic access, traffic circulation, existing and proposed utility easements, parking, location of trees and shrubs, signs, refuse and service areas.

C. Any additional information required by the secretary of the Planning Commission to establish the advisability of granting the conditional use permit. (Ord. 2006-13. Passed May 1, 2006.)

1111.03 CRITERIA FOR APPROVAL.
The following criteria shall be considered for each application for a conditional use permit:
(a) Whether the proposed conditional use is a listed conditional use in the appropriate chapter of this Zoning Ordinance for the zoning district in which the property is located.
(b) Whether the development standards of the zoning district in which the property is located are being complied with.
(c) Whether the proposed use will create an undue burden on public facilities and services such as streets, utilities, schools and refuse disposal.
(d) Whether the proposed use will be detrimental to existing and future neighboring uses, and will involve a use, structure or condition of operation that constitutes a nuisance or hazard to any persons or property. (Ord. ----------. Passed -------.)

1111.04 PROCEDURE.
(a) Setting Hearing. The Zoning Administrator shall set a public hearing to review applications for a conditional use permit.

(b) Notice of Hearing and Time for Consideration.
(1) Notice of the hearing before the Planning Commission shall be published once in one or more newspapers of general circulation in the Village, at least seven days prior to the date fixed for the hearing. The notice shall include the place, time and date of the hearing, the location of the property and the nature of the proposed conditional use. Failure of a newspaper to accurately or timely publish a properly submitted notice does not invalidate the granting or denial of a conditional use permit.
(2) A notice containing the information required by subsection (b)(1) hereof shall be sent by first class mail to all property owners listed pursuant to Section 1111.02(c)(5), not less than seven days prior to the date fixed for the hearing. Failure of any such property owners to receive mail notice does not invalidate the granting or denial of a conditional use permit.
(3) The Zoning Administrator shall post a sign at or near the location of the conditional use permit. Failure of the Zoning Administrator to post a sign or to post a sign in a specific location does not invalidate adoption of the proposed conditional use.
(4) The Planning Commission shall grant or deny the conditional use permit within 30 days after notice is published and mailed, unless said time frame is extended by a motion approved by the majority of Planning Commission.

(c) Public Hearing. The Planning Commission shall grant or deny the conditional use permit following the public hearing and after considering the criteria listed in Section 1111.03. Its decision shall be accompanied by written findings of fact and impose such conditions as are reasonably necessary to secure the purpose and objectives of this Zoning Ordinance.

(d) Right to Appeal. Any party, including the administrative staff of the Village, aggrieved or affected by the decision of the Planning Commission involving an application for a conditional use permit may appeal to Council, pursuant to Section 1107.06.

(e) Issuance of Conditional Use Permit. Upon approval of the Planning Commission or upon appeal and approval by Council, the Zoning Administrator shall issue to the applicant a

conditional use permit which includes any conditions imposed by the Planning Commission and any modifications ordered by Council on appeal. Such permit shall become effective upon approval by the Planning Commission or upon appeal and approval by Council. A conditional use permit shall authorize only one particular conditional use and such permit shall automatically expire if, for any reason, the conditional use shall not begin within one year after the permit is issued or shall cease for more than six months after the permit is issued. A Conditional Use Permit shall be personal to the applicant and shall not run with the land, and shall expire upon a transfer of ownership. (Ord. 2006-13. Passed May 1, 2006.)

1111.05 VIOLATION OF FINDINGS OF FACT; PERMIT REVOCATION; APPEAL.

(a) Whenever a previously approved conditional use is in violation of any of the findings of fact or other imposed conditions, pursuant to Section 1111.04(c), the Zoning Administrator shall give notice in the same manner as service of summons in civil cases, or by certified mail addressed to the owner of record of the premises at his last known address, or to the address to which tax bills are sent. Such notice shall include reasons by which the Zoning Administrator finds the conditional use to be in violation, and a statement that the owner shall have 30 days to comply with the granted conditional use permit.

(b) Upon failure of the owner to comply with the notice, the Zoning Administrator shall notify the Planning Commission that the conditional use is in violation and itemize the reasons for revocation of the conditional use permit.

(c) The Planning Commission shall continue or revoke the conditional use permit at its first regular meeting after the notice is received.

(d) Any party, including administrative staff of the Village, aggrieved or affected by the decision of the Planning Commission involving a revocation of a conditional use permit may appeal to Council, pursuant to Section 1107.06. (Ord. 2006-13. Passed May 1, 2006.)

CHAPTER 1113
Variances

1113.01 Purpose.
1113.02 Application for variance.
1113.03 Criteria for approval.
1113.04 Procedure.

CROSS REFERENCES
Variance defined - see P. & Z. 1105.10600
Grant of variance - see P. & Z. 1107.03

1113.01 PURPOSE.

Under some unusual circumstances due to the peculiar size, shape or topography of land, full and strict compliance with all development standards of this Zoning Ordinance could result in substantial hardship or injustice to the owner of the land and could even result in undesirable development of the land. The Board of Zoning Appeals may grant a variance to permit limited deviation from the development standards of this Zoning Ordinance under the criteria of Section 1113.03 where the development resulting from granting the variance will be consistent with the general purpose and intent of this Zoning Ordinance.

Variances shall not be granted to allow a use not permitted by this Zoning Ordinance in a particular zoning district. (Ord. 2006-13. Passed May 1, 2006.)

1113.02 APPLICATION FOR VARIANCE.

(a) Filing. Written application for a variance shall be made to the Board of Zoning Appeals and filed with the Zoning Administrator who shall transmit the application to the Board of Zoning Appeals. The application shall be signed by the owner of the property affected and shall state that the information provided is accurate and truthful.

(b) Fee. The applicant shall pay a fee in accordance with the fee schedule adopted and approved by Village Council to cover advertising, review, publishing and reporting the proceedings of the Board of Zoning Appeals.

(c) Contents of Application. The application shall include:

(1) The name, address and telephone number of the owner of the property;
(2) An accurate legal description of the property;
(3) The exact nature of the variance requested, including reference to the development standard from which applicant seeks deviation;
(4) A statement explaining the relation of the requested variance(s) to the criteria for approval as listed in Section 1113.03.
(5) A list of all owners of property including their mailing addresses, within, contiguous to, or directly across the street or streets from the property.
(6) Ten (10) copies of a plot plan showing:
  A. Boundaries and dimensions of the property, the size and location of all proposed or existing structures and the location of trees and shrubs.
  B. The nature of the special conditions or circumstances.
  C. The proposed use of all parts of the lot and structures.
  D. The use of land and location of structures on adjacent property.

(7) Any additional information required by the Zoning Administrator or the Board of Zoning Appeals to establish the advisability of granting the variance.
(Ord. 2006-13. Passed May 1, 2006.)

1113.03 CRITERIA FOR APPROVAL.

The following considerations shall be examined in the review and the public hearing of an application for variance.

(a) That special circumstances or conditions exist which are peculiar to the land or structures involved and which are not applicable to other lands or structures in the same zoning districts.

(b) That a literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Ordinance.

(c) That the special conditions and circumstances do not result from the actions of the applicant.

(d) That the granting of the variance will not confer on the applicant any special privilege that is denied by this Zoning Ordinance to other lands or structures in the same zoning district.

(e) That the granting of the variance will in no other manner adversely affect the health, safety and general welfare of the persons residing or working within the vicinity of the proposed services or traffic considerations.
(Ord. 2006-13. Passed May 1, 2006.)

1113.04 PROCEDURE.

(a) Setting Hearing. The Zoning Administrator shall set a public hearing to review applications for variances.

(b) Notice of Hearing and Time for Consideration.

(1) Notice of the hearing before the Board of Zoning Appeals shall be published once in one or more newspapers of general circulation in the Village, at least seven days prior to the date fixed for the hearing. The notice shall include the place, time and date of the hearing, the location of the property and the nature of the proposed variance. Failure of a newspaper to accurately or timely publish a properly submitted notice does not invalidate the granting or denial of a variance.

(2) A notice containing the information required by subsection (b)(1) hereof shall be sent by first class mail to all property owners listed, pursuant to Section 1113.02(c)(5) not less than seven days prior to the date fixed for the hearing. Further, the Zoning Administrator shall cause a notice to be posted at the subject property not less than seven days prior to the date fixed for the hearing. Failure of any such property owners to receive mail notice does not invalidate the granting or denial of a variance.

(3) The Zoning Administrator shall post a sign at or near the location of the property to which the application for variance applies. Failure of the Zoning Administrator to post a sign or to post a sign in a specific location does not invalidate adoption of the proposed application for variance applies.

(c) Public Hearing. The Board of Zoning Appeals shall grant or deny the variance following the public hearing and after considering the requirements listed in Section 1113.03. Its decision shall be accompanied by written findings of fact specifying the reasons for the decision reached. The Board of Zoning Appeals shall impose such conditions as are reasonably necessary to serve the purpose and objectives of this Zoning Ordinance.

(d) Right of Appeal. Any party, including the administrative staff of the Village, aggrieved or affected by the decision of the Board of Zoning Appeals involving an application for a variance may appeal to Council pursuant to Section 1107.06.

(e) Issuance of Zoning Certificate. Upon approval of the variance by the Board of Zoning Appeals or upon appeal and approval by Council, the Zoning Administrator shall issue to the applicant a zoning certificate which states all terms of the variance as granted including any conditions imposed by the Board of Zoning Appeals and any modifications ordered by Council on appeal. A variance and any right to a Zoning Certificate based on said variance shall expire automatically if, for any reason, within two years of approval of the variance, construction has not commenced on the construction, development or improvement for which the variance was granted. Once initiated, construction must proceed in a typical, conscientious and continuous manner toward completion. (Ord. 2006-13. Passed May 1, 2006.)

CHAPTER 1115
Nonconforming Uses

1115.01 Continuation, expansion, elimination and reconstruction.
1115.02 Nonconforming lots of record.
1115.03 Nonconforming uses of land (or land with minor structures only).
1115.04 Nonconforming structures.
1115.05 Nonconforming uses of structures or of structures and premises in combination.
1115.06 Repairs and maintenance.

CROSS REFERENCES
Nonconforming use defined - see P. & Z. 1105.6700
Nonconforming signs - see P. & Z. 1181.10

1115.01 CONTINUATION, EXPANSION, ELIMINATION AND RECONSTRUCTION.

(a) Intent. Within the Village of Centerburg there exist:
(1) Lots;
(2) Structures;
(3) Uses of land and structures; and
(4) Development Standards of uses;

which were lawful before this Zoning Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Zoning Ordinance. It is the intent of this section to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this section that nonconformities shall not be enlarged upon, expanded or extended. The Board of Zoning Appeals shall have the authority to grant an extension of a building or the expansion of the use of a lot devoted to a nonconforming use where such extension is necessary and incidental to the existing use of such building or lot. However, the floor areas or lot areas of such extensions shall not exceed, in all, 100 percent (100%) of the area of the existing building or lot devoted to a nonconforming use. The decision of the Board of Zoning Appeals may be appealed to Council pursuant to the provisions of Section 1107.06.

(b) Changes in Nonconforming Uses. The Board of Zoning Appeals may authorize substituting a nonconforming use for another nonconforming use provided no structural alterations except those required by law or ordinance are made.

(c) Reconstruction of Nonconforming Use. Where a nonconforming building has been damaged by explosion, fire, or an act of God to the extent of more than fifty percent (50%) of its fair market value, the Board of Zoning Appeals may permit reconstruction where it finds some compelling necessity requiring a continuance of the nonconforming use.
(Ord. 2006-13. Passed May 1, 2006.)

1115.02 NONCONFORMING LOTS OF RECORD.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption of this Zoning Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet

the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Zoning Ordinance and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Zoning Ordinance, and no portion of such parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Zoning Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Zoning Ordinance. The Planning Commission may permit the development of two or more contiguous, non-conforming lots if it is determined that the proposal is consistent with the development pattern in the site area, will not have an adverse effect on adjacent properties and is consistent with Village plans or objectives for the area.
(Ord. 2006-13. Passed May 1, 2006.)

1115.03 NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY).

Where at the time of passage of this Zoning Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Zoning Ordinance, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars ($1,000), the use may be continued so long as it remains otherwise lawful, provided:

(a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Ordinance;

(b) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of this Zoning Ordinance;

(c) If any such nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this Zoning Ordinance for the district in which such land is located; and

(d) No additional structure not conforming to the requirements of this Zoning Ordinance shall be erected in connection with such nonconforming use of land.
(Ord. 2006-13. Passed May 1, 2006.)

1115.04 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption of this Zoning Ordinance, or amendments thereto, that could not be built under the terms of this Zoning Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(b) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Zoning Ordinance.

(c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Ord. 2006-13. Passed May 1, 2006.)

1115.05 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.

If a lawful use involving individual structures with a replacement cost of one thousand dollars ($1,000) or more, or of structure and premises in combination, exists at the effective date of adoption of this Zoning Ordinance or amendments thereto, that would not be allowed in the district under the terms of this Zoning Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No existing structure devoted to a use not permitted by this Zoning Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Zoning Ordinance, but no such use shall be extended to occupy any land outside such building;

(c) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another non-conforming use provided that the Board of Zoning Appeals either by general rule or by making findings in the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of this Zoning Ordinance.

(d) Any structure, or structure and land in combination, in or on which a nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(e) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for eighteen months during any three-year period, except when government action impedes access to the premises, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and

(f) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction.

(Ord. 2006-13. Passed May 1, 2006.)

1115.06 REPAIRS AND MAINTENANCE.

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, heating, air conditioning or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
(Ord. 2006-13. Passed May 1, 2006.)