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**SECTION 10.01 ZONING ADMINISTRATION**

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- A. The provisions of this Ordinance shall be administered and enforced by the Village Zoning Administrator, appointed by the Village Council for such term and subject to such conditions and at such rate of compensation as said Council shall determine as reasonable.
- B. The Zoning Administrator shall have the power to grant Zoning Permits. However it shall be unlawful for the Zoning Administrator to approve any plans or issue any Permits for excavation for construction purposes or construction until such plans have been inspected in detail and found to conform to this Ordinance.
- C. It shall be the duty of the Zoning Administrator, or other official designated by the Village Council, to inspect land, buildings and/or structures to determine violations of or compliance with this Ordinance. The Zoning Administrator, or other official designated by the Village Council, shall exercise this right of inspection by consent of the person having the right to possession of the land, building and/or structure or any part thereof, or by administrative search warrant issued by a court of competent jurisdiction.
- D. The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties of Zoning Administrator.
- E. The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are met by the applicant despite violations of contracts, such as covenants or private agreements that may occur upon the granting of said Permit.
- F. The Bellaire Village Council may also appoint a Deputy Zoning Administrator.

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**SECTION 10.02 ZONING PERMIT AND APPLICATION**

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- A. No land, building or structure subject to the provisions of this Ordinance shall hereafter be used, erected, structurally altered (as related to the exterior of the building or structure), reconstructed, used for a different purpose, or moved nor shall any excavation of land for construction purposes be commenced until a zoning permit application has been filed with the Zoning Administrator and a Zoning Permit has been issued by the Zoning Administrator, except as otherwise permitted for in this ordinance. Re-roofing, siding and/or window replacement for existing building do not require a Zoning Permit. No Zoning Permit shall be required for the continuation of any lawful use of any building or structure in existence as of the adoption date of this Ordinance. No Zoning permit shall be required for an accessory building less than 200 sf in size, but the location of the accessory structure shall comply with the applicable district setbacks.
- B. The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. Any application requiring approval from the Planning Commission must be submitted not less than thirty (30) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:
  - 1. A Site Plan, if required, or a Plot Plan with the required information as specified in **Article 6**.

2. Properties under two (2) acres in size may be required to submit a legal property survey, sealed by a professional surveyor (not a mortgage survey). The Zoning Administrator shall have the authority to require such a survey of the affected area in the cases where there may be encroachment on the setbacks by the proposed structures or when the exact locations of lot lines are not known.
  3. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator.
  4. Such other information as may be required to determine compliance with the Ordinance.
- C. A Zoning Permit shall not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits issued by the Antrim County Building Department.
- D. The location of the property boundaries and all structures shall be staked on the ground for Zoning Administrator approval prior to the issuance of the Zoning Permit.
- E. Any Zoning Permit under which substantial construction has not started or if no substantial construction has been done in the furtherance of the zoning permit, the zoning permit will expire after twelve (12) months from date of issuance. Prior to the expiration of the Zoning Permit, upon application the applicant shall be granted one one-year extension.
- F. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
- G. No Zoning Permit shall be valid until the required fees have been paid. Except for an accessory building or structure less than 200 square feet in size, which does not require a zoning permit pursuant to **Section 10.02.A** of this Ordinance, no separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Village Council.
- H. Upon issuance of the Zoning permit, a copy of the permit and the application, including any drawings shall be transmitted to the Assessor, the Antrim County Building Department and other agencies as appropriate.
- I. Any zoning permit required by this Zoning Ordinance shall be displayed face out, within twenty-four hours of its issuance by placing the same in a conspicuous place on the premises facing the nearest street and shall be continuously so displayed until all work is completed.

### **SECTION 10.03 INSPECTIONS**

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No zoning permit will be issued by the Zoning Administrator without first conducting a site inspection. It is the responsibility of the applicant to have all applicable property lines and building sites marked on the ground and to notify the Zoning Administrator of such.

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**SECTION 10.04 FEES**

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- A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the village, the Village Council may from time to time adopt by resolution a fee schedule establishing basic zoning fees, such as those fees related to the following:
1. Zoning permits
  2. Special land use permits
  3. Ordinance interpretations by the Zoning Board of Appeals: appeals of administrative interpretation or request for interpretation. Appeals and requests for interpretation initiated by the Village Council, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
  4. Classification of unlisted property uses.
  5. Requests to change a non-conforming use to another non-conforming use.
  6. Requests for variances from the Zoning Board of Appeals.
  7. Requests for rezoning of property by individual property owners or amendments to the zoning ordinance text. Rezoning of property or text amendments initiated by the Village Council, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
  8. Site plan reviews.
  9. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

- B. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary or advisable, then the applicant shall deposit with the Village Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be

equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance, prior to the scheduled hearing date, shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Village in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

### **SECTION 10.05 PERFORMANCE GUARANTEE**

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In connection with the construction of improvements through site plan approval or special land use approval, the Planning Commission may require the applicant to furnish the Village with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation streets, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission, which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Village Clerk at or before the time the village issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Village Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third of the cash deposit after completion of one-third of the public and site improvements;
- B. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the village as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

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**SECTION 10.06 CONDITIONS**

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The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under their jurisdiction. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and 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. Be related to the valid exercise of the police power, and purposes, which are affected, by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

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**SECTION 10.07 REHEARING PROCESS**

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- A. Final Decisions: Except as provided in this section, a decision of the Planning Commission or Zoning Board of Appeals shall be final. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
  1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
  2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
  3. The Village attorney by written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. Rehearing Procedure: A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.
  1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
  2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been

prejudiced by any delay.

3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicants' last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

#### **SECTION 10.08 VIOLATIONS AND PENALTIES**

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- A. Nuisance per se: Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
- B. Penalties
  1. Any person, partnership, limited liability company, corporation, association or other entity who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every day that such violation continues may constitute a separate and distinct offense under the provisions of this Ordinance.
  2. The Officers of the Bellaire Police Department and other officials authorized by the Village Council are hereby designated as the authorized Village officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
  3. In addition to or in lieu of enforcing this Ordinance, as a municipal civil infraction, the village may initiate proceedings in the any court of competent jurisdiction to abate, eliminate, or enjoin the nuisance per se or any other violation of this Ordinance.
- D. Stop Work Order:
  1. If construction or land uses are being undertaken contrary to a Zoning Permit, the Michigan Zoning Enabling Act, or this Ordinance, the Zoning Administrator or Deputy Zoning Administrator or any other official authorized by the Village Council is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the Ordinance.
  2. A person shall not continue, or cause or allow to be continued, construction or

uses in violation of a stop work order, except with permission of the Zoning Administrator to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the Zoning Administrator may apply to the circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance.

**SECTION 10.09 CONFLICTING REGULATIONS**

In the interpretation of this Ordinance, this Ordinance shall control unless there exists a conflict with any other Village ordinances, in which case the more stringent regulations will apply.