

ZONING ADMINISTRATION AND ENFORCEMENT

Section 12.0 - Administration

The provisions of this Ordinance shall be administered by the Bellaire Village Council in accordance with the State of Michigan, Village Zoning Act, Act 207, of the Public Acts of 1921, as amended.

The Bellaire Village Council shall employ a Zoning Administrator to act as its officer and except as otherwise provided in this Ordinance, the Zoning Administrator shall administer and enforce this Ordinance, including the receiving and processing of applications for zoning permits, special use permits, sign permits, appeals for variances or other matters the Zoning Board of Appeals or Planning Commission is required to decide. The Administrator shall also be responsible for the inspection of premises, the issuance of zoning permits and institution of proceedings for the enforcement of the provision of this Zoning Ordinance. The Bellaire Village Council may also appoint a Deputy Zoning Administrator.

Section 12.1 - Zoning Permits

It shall be unlawful for any person to commence excavation, or clearing of vegetation on a lot for any building or structure or to commence the erection, addition, alteration or repair of any building, structure; and no land use shall be commenced until a zoning permit has been secured from the Zoning Administrator. Except upon a written order of the Zoning Board of Appeals, no such zoning permit shall be issued for any building where the construction, addition, alteration or use thereof would be in violation of any of the provisions of this Ordinance. Exempted from the permit requirements are exterior alterations and ordinary maintenance repairs that do not require a building, mechanical, electrical or plumbing permit.

Information contained on an issued zoning permit shall not be altered or rewritten in any manner by anyone except the current Zoning Administrator or Deputy Zoning Administrator. Any alteration by an individual other than the current Zoning Administrator or Deputy Zoning Administrator shall automatically invalidate the permit. A new application shall then be filed along with the payment of a new fee upon which a new zoning permit shall be issued.

An approved Land Use Zoning Permit or granted use or dimensional variance shall expire one (1) year following approval and issuance unless substantial construction has begun pursuant to the permit, unless prior to the expiration of the permit or the property owner applies for and receives an extension from the Zoning Administrator prior to the expiration of the permit.

Section 12.2 - Zoning Permit Application

Application for a zoning permit shall be filed in writing with the Zoning Administrator, signed by the person, firm, co-partnership or corporation requesting the same or by the duly authorized agent of such person, firm, co-partnership or corporation. In the instance of a duly authorized agent, a notarized letter from the property owner giving authorization to secure the permit shall accompany the zoning permit application. There shall be submitted with all applications for zoning permits one (1) copy of a site plan, giving accurate dimension on a scale drawing. The following information shall be submitted with the zoning application:

1. Existing and intended use of the structure.
2. Lines and dimensions of the lots to be used.
3. Location upon the lot of all existing and proposed structures and any streets bordering the property.
4. Application for zoning permits under the provision of this Ordinance shall be accompanied by evidence of ownership of all property affected by the coverage of the permit
5. The Zoning Administrator may require other information with respect to the proposed structure, use, lot and adjoining property.

The Zoning Administrator may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this Ordinance.

Any permit required by this Zoning Ordinance shall be displayed face out, within twenty-four (24) 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 12.3 – Inspections

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 property lines and building sites marked on the ground and to notify the Zoning Administrator of such.

Section 12.4 - Posting of Financial Guarantee

The Village is empowered to require a performance bond, irrevocable bank letter of credit or certified check in an amount up to or equal to the estimated cost of improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the Village at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance guarantee shall be forfeited. The Village shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvement completed, as attested to by the depositor and verified by the Zoning Administrator. In cases where provisions of this Ordinance have not been met, the amount of the aforementioned performance guarantee shall be used by the Village to complete the required improvements; and the balance, if any, shall be returned to the applicant.

Section 12.5 - Fees

- 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 related to the following:
 1. Zoning permits.

2. Special use permits.
3. Requests for classification of property.
4. Appeals to or requests for interpretations by the Zoning Board of Appeals.
5. Appeals and requests for interpretations initiated by the Village Council, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
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. Requests for a special meeting of the Planning Commission.
9. Change of Use Permits

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, time spent by the members of the Planning Commission and/or Zoning Board of Appeals, cost of professional services, and cost to establish a legal fund. 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 the applicant withdraws an application or appeal.

- B. If the Planning Commission Board or its Chairperson or Zoning Board of Appeals or its Chairperson determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission Board or its Chairperson or Zoning Board of Appeals or its Chairperson 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, then the applicant shall deposit with the Village Treasurer such additional zoning fees in an amount determined by the Planning Commission Board or its Chairperson or Zoning Board of Appeals or its Chairperson 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 Board or its Chairperson or Zoning Board of Appeals or its Chairperson may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission Board or its Chairperson or Zoning Board of Appeals or its Chairperson 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 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 12.6 – Conditions

The Planning & Zoning Commission or Zoning Board of Appeals may attach reasonable conditions with the approval of a special use permit, site plan approval, or variance. These conditions may include those necessary to insure that public services and facilities affected by a 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. An conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and 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. 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.

Section 12.7 – Rehearing Process

- A. The Planning & Zoning 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 & Zoning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning & Zoning Commission or Zoning Board of Appeals in reaching its decision.
 - 2. There has been a material change in circumstances regarding the Planning & Zoning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
 - 3. The village attorney by a written opinion states that in the attorney's professional opinion the decision was made by the Planning & Zoning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning & Zoning Commission or Zoning Board of Appeals on its own motion, pursuant to the following procedure:

- 1. A request for a rehearing that is made by an applicant must be made within

twenty-one (21) days from the date decision on the permit application by of the Planning & Zoning Commission or Zoning Board of Appeals 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 & Zoning 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 & Zoning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provided written notice to the applicant that a rehearing will be considered. A notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the village and shall be sent to the person requesting the rehearing and to the zoning administrator or other administrative agency or official fifteen (15) days before the public hearing. In addition, if the rehearing involves an interpretation of the zoning ordinance or a specific parcel, written notice stating the nature of the appeal and the time, date, and place of the public hearing on the appeal shall be sent by first class mail or personal delivery 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 of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used. 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.
4. If the Planning or Zoning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

Section 12.8 - Amendments

Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the zoning map may be amended, supplemented or changed by ordinance of the Bellaire Village Council.
- B. The Planning Commission may initiate proposals for amendments, supplements or changes on its own motion or by petition of one (1) or more members of the property to be affected by the proposed amendment.
- C. The procedure to be followed for initiating and processing an amendment by petition shall be as follows:
 1. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee prescribed to cover administrative and publication costs.
 2. The Planning Commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal, in terms of the most likely effect on the community's physical development, and for compliance with adopted village plans. The Planning

Commission may recommend any additions or modifications to the original amendment proposal.

Rezoning Standards of Review:

- a. The proposed use provided for in the district must be consistent with the uses called for in the Master Plan for that property.
 - b. The proposed district and all of its allowed uses must be compatible with the surrounding area.
 - c. Determination of whether the property is capable of being used for a use already permitted within the district.
3. After deliberation of any proposal, the Planning Commission shall conduct at least one (1) public hearing, notice of the date, time and place of which shall be given by publication in a newspaper of general circulation in the Village, notice to be printed not less than fifteen (15) days before the date of such hearing. Not less than fifteen (15) days notice of the date, time and place of such hearing shall also be given by registered mail to each public utility company that registers its name with the village clerk for the purpose of receiving the notice. In the case of a rezoning of an individual property or several adjacent properties, not less than fifteen (15) days notice of the date, time and place of such hearing shall also be given by registered mail to each owner of the property proposed to be rezoned. The notices shall include the places and times at which the tentative text and any map of the zoning amendment may be examined. In addition, if the rezoning involves a specific parcel, written notice stating the nature of the rezoning and the time, date, and place of the public hearing on the rezoning shall be sent by first class mail or personal delivery 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 of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
 4. Following such hearing, the Planning Commission shall consider the testimony taken at the public hearing and its own findings, and shall make a determination as to its decision. Thereafter at any regular meeting or at any special meeting called therefore the Village Council may ordain and enact into law the proposed amendment to the Bellaire Zoning Ordinance.
 5. In case a protest against a proposed amendment, supplement or change is presented, duly signed by the owners of twenty (20%) percent or more of the frontage proposed to be altered, or by owners of twenty (20%) percent of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed except by a three-quarters (3/4) vote of the sitting Village Council.
 6. No application for a rezoning which has been denied by the Village Council shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Village Council to be valid. A

rehearing on the permit may be made in accordance with Section 12.7.

Section 12.9 - Penalties

- A. Any person, partnership, limited liability company, corporation, or association who creates or maintains a nuisance per se as defined in this section or who violates or fails to comply with any provision of this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.
- B. Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed 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.
- C. Officers of the Bellaire Police Department, and other Village officials designated by resolution of the Village Council, are hereby authorized to issue municipal civil infractions under this Ordinance directing offenders to appear in court.
- D. In addition to enforcing this Ordinance as a municipal civil infraction, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 12.10 - Interpretation and Conflict

In interpreting and applying the provisions of this Ordinance, the provisions shall be held to be the minimum requirements adopted for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Ordinance to interfere with, abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of a building or land than existing easements, covenants or other agreements, the provisions of this Ordinance shall govern or control. Whenever the requirements of this Ordinance differ from the requirements of other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.