

CLARENCE TOWNSHIP ZONING ORDINANCE

- E. All required off-street parking shall provide adequate surface drainage facilities to collect and properly manage storm water runoff. Off-street parking areas shall be drained so as to prevent direct drainage onto abutting properties and public streets. See also Section 26.06, Storm Water Management.

Section 8.04 - MINIMUM REQUIRED PARKING SPACES

This Section identifies the minimum number of required off-street parking spaces by land use type. However, in no case shall additional parking spaces of a concrete, asphalt or similar impervious surface be provided in excess of twenty-five percent (25%) of the minimum required number, except upon a finding by the site plan approving body that such additional spaces are necessary due to the unique character of the use in relation to the standards of this Section.

- A. Apartment houses: Two (2) parking spaces for family unit.
- B. Retail stores, supermarkets, department stores, personal service shops, and shopping centers: One (1) parking space for each one hundred (100) square feet area in the basement and on the first floor used for retail sales; one (1) space for each one hundred fifty (150) square feet of floor area on the second floor unused for retail sales; one (1) space for each three hundred (300) square feet of floor area on the third floor used for retail sales; and one (1) space for each four hundred (400) square feet of any additional floor used for retail sales.
- C. Manufacturing buildings: One (1) parking space for each three (3) employees on the maximum shift.
- D. Motels and tourist homes: One (1) parking space for each separate unit.
- E. Theaters, auditoriums, stadiums and churches: One (1) parking space for each four (4) seats.
- F. Dance halls, assembly halls and convention halls without fixed seats: One (1) parking space for each one hundred (100) square feet of floor area if to be used for dancing or assembly.
- G. Restaurants and night clubs: One (1) parking space for each one hundred (100) square feet of floor area.
- H. Roadside stands: Two (2) parking spaces.
- I. Other uses not specifically mentioned: In the case of buildings which are used for uses not specifically mentioned, those provisions for off-street parking facilities for a use which is so mentioned and to which said use is similar in terms of parking demand shall apply.

Section 8.05 - The zoning board of appeals shall have authority to grant variance from the foregoing where it is satisfied under the circumstances prevailing that the requirements for off-street parking are unnecessarily too large for the particular development.

Section 8.06 – DEFERMENT OF PARKING SPACES

In recognition that certain commercial uses generate significantly heightened demands for parking spaces during seasonal or holiday shopping periods, the site plan approving body may, upon request by the applicant, waive up to twenty-five percent (25%) of the required number of parking spaces as a reserved parking area for possible future use. However, the site plan approving body may subsequently require the applicant to construct such parking spaces upon a determination by the site plan approving body that the reduced number of parking spaces is not adequate to meet the parking needs of the use and public safety and welfare is at risk. Upon such a determination, the applicant shall convert the reserve parking area into available parking spaces, meeting all requirements of this Article, within 6 months of such determination. The approved site plan shall clearly identify the location of this reserve parking area including parking spaces and aisles, and no buildings, structures, or similar improvements shall be established in the reserve parking area. This subsection shall apply only to commercial uses that are required to provide more than thirty (30) parking spaces.

End of Article VIII

(Art. VIII Amended 5-11-09 / Ord. 24-1)

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**Article IX
Reserved for Future Use**

End of Article IX

(Art. IX amended 3-14-11 / Ord. 24-4 to reserve for future use)

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Article X
Reserved for Future Use

End of Article X

(Art. X amended 3-14-11 / Ord. 24-4 to reserve for future use, its previous subject matter, buffer areas, relocated to Art. III)

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**Article XI
Reserved for Future Use**

End of Article XI

(Art. XI amended 6-14-10 / Ord. 24-3 to reserve for future use, its previous subject matter, lighting and screening, relocated to Art. XXIII)

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**Article XII
Reserved for Future Use**

End of Article XII

(Art.XII amended 6-14-10 / Ord. 24-3 to reserve for future use, its previous subject matter, tents and trailers, relocated to Art. XXIII)

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Article XIII

ENVIRONMENTAL PROTECTION

Section 13.01 - PURPOSE

The purpose of this Article is to promote a healthy environment as it relates to the Township's natural resources and sensitive ecosystems, addressing such matters compliance with environmental protection laws, erosion control and sedimentation, storm water management, minimizing disturbances to natural resources, and assuring adequate provisions for sewage disposal and potable water. This Article is intended to protect the Township's natural resources for the important environmental roles they play including wildlife habitats, flood control, water purification, groundwater recharge, and air quality enhancement, as well as the impacts such resources have on recreation and property values. All provisions of this Article apply to all structures, buildings and uses unless otherwise specified.

Section 13.02 - GENERAL REQUIREMENTS

- A. Compliance with Local, County, State, and Federal Regulations:** All land uses and construction activities shall conform to the provisions of this Ordinance and all local, county, state and federal regulations including, but not limited to the Michigan Department of Environmental Quality, Calhoun County Health Department, and any other agency of jurisdiction including those applying to air and water quality protection, wetlands, stream crossings, fills in or near water bodies or in flood plains, waste disposal, and the loading/unloading, transport, storage, use and/or disposal of hazardous substances including fuels and other flammable and toxic materials.
1. Except where required to do so by law, the Township shall not approve any land use which requires a county, state, or federal permit until such permit has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits, or satisfactory evidence has been submitted to the approving body verifying the acquisition of such permit is not necessary.
- B. Atmospheric Discharge:** Any atmospheric discharge requiring a permit from the Michigan Department of Environmental Quality or federal government shall have said permit(s) as a condition of approval for such use. This subsection shall not apply to farm operations in compliance with most current published Generally Accepted Agricultural Management Practices of the Michigan Commission of Agriculture.
- C. Sensitive Environmental Areas:** Where a portion of a parcel is characterized by sensitive or fragile environmental features, including wetlands, hydric soils, or flood plains, new development on the parcel shall only occur on those portions of the parcel void of such features where reasonably feasible.
- D. Removal of Topsoil:** The stripping and removal of topsoil from a lot for storage, use or deposit at or on another lot is prohibited prior to the completion of all approved site improvements and the seeding, sodding, and landscaping of all disturbed areas except where expressly authorized as part of an approved site plan. "Disturbed areas" shall be interpreted to mean any area of a lot which is altered by grading or other construction activities and which area is not proposed to be paved or otherwise built upon. This subsection (D) shall not apply in the case of single family and two-family dwellings for which a Zoning Permit and Building Permit has been issued, provided the topsoil to be removed is limited to the immediate area of the proposed site improvements according to such permits.
- E. Mitigation:** The Township may require mitigation measures be taken to replace those resources disturbed or destroyed by a land use, or to otherwise lessen the impact of a new land use upon natural resources and sensitive areas.

Section 13.03 - POTABLE WATER and SEWAGE DISPOSAL

Any building intended for human occupancy and used for dwelling, businesses, industrial, recreational, or institutional purposes shall not be erected, altered, used or moved upon any premises unless said building shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of generated wastes. All sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Calhoun County Health Department as well as those of other applicable local, county, state, or federal agencies.

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Section 13.04 - LIMITATIONS on IMPERVIOUS COVER

The maximum portion of a lot or parcel that may be of an impervious cover, measured as a percent (%) of the area of the lot or parcel, shall not exceed the standards of the table below. For the purpose of this Section 13.04, “impervious cover” shall mean any manmade paved or structural surface regardless of material including but not limited to rooftops, buildings, streets, roads, decks, patios including those of a brick or stone material, and any concrete or asphalt. However, in the case of a residence, “impervious cover” shall not include swimming pools, any portion of a walkway less than five (5) feet in width, and any portion of a driveway less than twelve (12) feet in width.

Zoning District	Maximum Impervious Cover
AG District	15% of Lot/Parcel Area
R-1 and R-2 Districts	<p align="center"><u>Lot Area of Less Than 5,000 sq. ft.</u></p> <p>The greater of either 2,000 square feet or 50% of the lot/parcel area. For example, the maximum impervious cover for a lot of 3,500 sq. ft. would be the greater of 2,000 sq. ft. or 50% of 3,500 sq. ft. which is equal to 1,750 sq. ft. The maximum permissible impervious cover would be 2,000 sq. ft.</p> <p align="center"><u>Lot Area of Between 5,000 sq. ft. – 10,000 sq. ft.</u></p> <p>The greater of either 2,500 square feet or 35% of the lot/parcel area. For example, the maximum impervious cover for a lot of 8,000 sq. ft. would be the greater of 2,500 sq. ft. or 35% of 8,000 sq. ft. which is equal to 2,800 sq. ft. The maximum permissible impervious cover would be 2,800 sq. ft.</p> <p align="center"><u>Lot Area of Between 10,001 sq. ft. – 20,000 sq. ft.</u></p> <p>The greater of either 3,500 square feet or 25% of the lot/parcel area. For example, the maximum impervious cover for a lot of 12,000 sq. ft. would be the greater of 3,500 sq. ft. or 25% of 12,000 sq. ft. which is equal to 3,000 sq. ft. The maximum permissible impervious cover would be 3,500 sq. ft.</p> <p align="center"><u>Lot Area of More Than 20,000 sq. ft.</u></p> <p>The greater of either 5,000 square feet or 20% of the lot/parcel area. For example, the maximum impervious cover for a lot of 30,000 sq. ft. would be the greater of 5,000 sq. ft. or 20% of 30,000 sq. ft. which is equal to 6,000 sq. ft. The maximum permissible impervious cover would be 6,000 sq. ft.</p>
Commercial and Industrial Districts	50% of Lot/Parcel Area

Section 13.05 - NATURAL FEATURES SETBACKS and BUFFERS

- A. Definitions:** For the purpose of this Section, the following words and phrases shall have the following meanings:
- Impervious Cover:** Any manmade paved, hardened or structural surface regardless of material including but not limited to rooftops, buildings, streets, roads, decks, patios including those of a brick or stone material, swimming pools, and any concrete or asphalt.
 - Natural Feature:** A wetland or watercourse.
 - Natural Feature Edge:** The ordinary high water mark as defined below, except that in the case where there exists a bank along the natural feature such as a stream bank, where the bank exceeds a slope of ten percent (10%), the natural feature edge shall be considered the top of the bank or a line thirty (30) feet from the ordinary high water mark, whichever is less.
 - Ordinary High Water Mark:** The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil.
 - Watercourse:** Any waterway including a river, stream, creek, lake, vernal pool, pond, or any body of surface water having definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.
 - Wetlands:** Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

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B. Natural Feature Setback Required:

1. Unless otherwise specified in this Ordinance, a natural features setback of sixty (60) feet shall be maintained from the natural feature edge for all buildings, and any structures in excess of three (3) feet in height above the ground below, except that where there exists one (1) or more dwellings located along such natural feature and where such one or more dwelling is within one hundred fifty (150) feet of a side lot line of the lot on which construction of a dwelling is proposed, the required setback shall be the average setback of such existing dwellings measured from the natural feature edge. However, in no case shall such natural feature setback be less than twenty-five (25) feet nor shall such setback be required to be greater than sixty (60) feet. Steps, and those portions of unroofed decks and porches with a floor surface eighteen (18) inches or less above the ground, shall not be considered in determining such average setback. Where only a portion of a dwelling is located within such one hundred fifty (150) foot measured distance, the setback of the entire dwelling shall be used for determining such average setback.
2. Unless otherwise specified in this Ordinance, a natural features setback of twenty-five (25) feet shall be maintained from the natural feature edge for all decks, patios, and any structures of three (3) feet or less in height above the ground below.

C. Use Restrictions within a Natural Feature Setback: Within a natural feature setback, unless and only to the extent determined to be in the public interest by the designated approving body for the development under consideration, there shall be no clearing, grubbing or stripping; removal of vegetation; application of fertilizers or pesticides; dredging, grading, excavation, removal or addition of soil or transporting and filling of land; erection or addition of structures, buildings or any other construction including concrete or asphalt paving; or the installation of any impervious cover. In addition, no vegetation cutting or removal within the natural features setback shall occur prior to all approvals from the designated approving body(s) have been obtained.

1. **Determination of Public Interest:** In determining whether proposed construction or operations in a natural resources setback are in the public interest, the benefit which would reasonably be expected to result from the proposal shall be balanced against the reasonably foreseeable detriments of the construction or other operation, taking into consideration the local, state and national concern for the protection and preservation of the natural feature in question. If, as a result of such a balancing, there remains a debatable question whether the proposed project and/or operation is clearly in the public interest, authorization for the construction and/or operation within the natural feature setback shall not be granted. The following general criteria shall be applied in undertaking this balancing test:
 - a. The relative extent of the public and private need for the proposed activity;
 - b. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity;
 - c. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the natural feature and/or natural feature setback provides;
 - d. The probable impact of the proposed construction and/or operation in relation to the cumulative effect created by other existing and anticipated activities on the natural feature to be protected;
 - e. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values, and on fish, wildlife and the public health;
 - f. The degree of proposed encroachment into the natural features setback, and the proximity of the proposed construction and/or operation in relation to the general natural feature, taking into consideration the degree of slope, general topography in the area, soil type and the nature of the natural feature to be protected;

D. Exemptions: If and to the extent Clarence Township is prohibited by its ordinances and/or law from regulating the proposed activity in or on the respective natural feature, regulation under this Section shall be exempted. In addition, the following activities shall be exempted from regulation under this Section provided it is not the intent of this provision to exempt regulation by other ordinance provisions relative to the natural feature itself:

1. Installation of a fence;
2. Maintenance of previously established lawn areas;
3. Grading and filling necessary in order to conform to express requirements imposed by the Township;
4. Installation of docks for watercourse use provided the portion of such dock or access way extending through or across a wetland does not exceed seventy-five (75) feet.
5. Planting of non-invasive trees and other vegetation, but not the use of fertilizers.
6. Work consisting of the repair or maintenance of any lawful use of land approved for such use.
7. Existing agriculture, silvaculture, landscaping, gardening and lawn maintenance, including the removal of dead and diseased trees.

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8. The clearing of up to thirty percent (30%) of the vegetation in the natural features setback to afford views and/or access to the natural feature, provided adequate measures are taken to prohibit the exposure of bare soil and soil erosion, such as the establishment of grasses or other vegetative ground cover.
9. Any lawful activity that is under construction, fully approved for development prior to the effective date of this Ordinance.

Section 13.06 - STORM WATER MANAGEMENT

- A. Applicability:** Uses subject to this Section shall be limited to those uses subject to site plan approval according Article XVIII of this Ordinance unless expressly provided otherwise by this Ordinance.
- B. General Standards:** All uses shall be designed, constructed, and maintained to prevent flooding, protect water quality, reduce soil erosion, maintain and improve wildlife habitat, and contribute to the aesthetic values of the project. In meeting these requirements, the following standards shall apply to the greatest extent practical and feasible:
 1. All storm water drainage and erosion control plans shall meet the rules and regulations of the Calhoun County Drain Commissioner and any additional regulations as this or other ordinance may provide, including standards pertaining to discharge volumes and the design of retention and detention areas. Compliance with such standards shall, to the maximum extent feasible, utilize nonstructural control techniques including, but not limited to: limitation of land disturbance and grading; maintenance of vegetated buffers and natural vegetation; minimization of impervious surfaces; use of terraces, contoured landscapes, runoff spreaders, and grass or rock-lined swales; and use of infiltration devices.
 2. The particular facilities and measures required on-site shall reflect and incorporate existing grade, natural features, wetlands, and watercourses on the site.
 3. Storm water management systems shall be designed to prevent flooding and the degradation of water quality related to storm water runoff and soil erosion from proposed development for adjacent and downstream property owners.
 4. Site development and storm water management systems shall maintain natural drainage patterns and watercourses.
 5. The conveyance of storm water shall rely on swales and vegetated buffer strips to the greatest extent feasible and practical.
 6. Drainage systems shall be designed to be visually attractive including the integration of storm water conveyance systems and retention and detention ponds into the overall landscape concept. Ponds shall be designed to be naturally contoured, rather than a square or rectangular design.
 7. It shall be prohibited to increase the rate or quantity of runoff upon adjacent properties or public roads, to cause erosion or filling of a roadside ditch, stream or other water body, to block a public watercourse, or create standing water over a sewage disposal drainage field.
 8. Whenever a landowner is required to provide on-site storm water retention and/or surface drainage to wetlands, or whenever other protective environmental measures including monitoring devices are required, such measures or facilities shall be provided and maintained at the landowner's expense. The landowner shall provide satisfactory assurance to the Township whether by written agreement or otherwise, that the landowner will bear the responsibility for providing and maintaining such methods or facilities.
- C. Minimizing Storm Water Runoff**
 1. Roads constructed as part of a subdivision or similar unified development shall be designed to minimize storm waste runoff such as limiting road paving to the minimum necessary width, including cul-de-sacs, while adequately addressing anticipated traffic levels, on-street parking, and emergency vehicle needs.
 2. See Sections 8.03(D) and 8.06 regarding minimizing impervious surfaces in association with off-street parking through shared parking facilities and deferred parking spaces.
 3. Roof-top runoff shall be directed to pervious areas such as yards, open channels, or other vegetated areas.
 4. Clearing and grading shall be limited to only those locations approved for such landscape alterations as delineated on the approved site plan.
- D. Use Of Wetlands:** Wetlands may be used for storm water management if all the following conditions are met:
 1. All runoff from the development will be pre-treated to remove sediment and other pollutants prior to discharge to a wetland. Such treatment facilities shall be constructed before property grading begins. Storm water runoff discharged to wetlands must be diffused to non-erosive velocities before it reaches the wetland. Direct discharge of untreated storm water to a natural wetland is prohibited.
 2. Wildlife, fish, or other beneficial aquatic organisms and their habitat within the wetland shall not be impaired.
 3. The wetland has sufficient holding capacity for storm water, based upon calculations prepared by the applicant and reviewed and approved by the township after consultation with an engineer of applicable expertise.
 4. Adequate on-site erosion control is provided to protect the natural functioning of the wetland.
 5. Adequate private restrictions are established, such as a conservation easement over the wetlands, to insure that

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- the wetland is not disturbed or impaired in the future relative to the needed storage capacity.
6. Applicable permits from the Michigan Department of Environmental Quality and any other agency of jurisdiction are obtained.

End of Article XIII

(Art. XIII amended 6-14-10 / Ord. 24-3 to reserve for future use)

(Art. XIII amended 3-14-11 / Ord. 24-4 for "Environmental Protection," previously comprising Article XXVI)

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Article XIV

ADVERTISING SIGNS and BILLBOARDS

Section 14.01 - No advertising signs or billboards of any kind or nature shall be erected in an “R-1”, “R-2”, or “R-3” Residence District or any variation of the same except as follows:

- A.** In an “R-1”, “R-2”, or “R-3” Residence District, a name plate not exceeding six (6) square feet in area containing the name and the home occupation of the occupant of the premises. Temporary signs not exceeding eight (8) square feet in area may be installed or constructed.
- B.** In an “A” Agricultural District, a sign not exceeding thirty-two (32) square feet in area advertising permitted services rendered or offered upon or from the premises where the same is situated so that in no way, constitutes a traffic hazard; is of a subdued nature commensurate with the residential or agricultural character of the neighborhood; is maintained in a neat and attractive manner: contains no neon or intermittent lighting or other bright or blaring lighting which would be a nuisance or annoyance to a neighborhood or which would create any electrical disturbance therein.
- C.** Advertising signs, (not exceeding thirty-two (32) square feet) advertising goods, products, services or activities sold, produced, rendered or available from or upon the premises where the same are located, may be installed or constructed within a “C-1” Commercial District provided they are located not less than ten (10) feet from the side line of the property nor less than one-half the required building setback distance from the abutting street right-of-way line; in no manner constitute a traffic hazard; are not less than eleven (11) feet above any sidewalk or passway for pedestrians or vehicles beneath the same; are not a nuisance or annoyance by reason of lighting, electrical disturbance, or unreasonable size, and are not constructed or installed until a permit has first been obtained therefor from the building and zoning inspector of the township.
- D.** No advertising sign permit shall be issued until the building and zoning inspector is satisfied the sign to be constructed complies with the provisions of this ordinance and will be constructed in a safe, sturdy, and durable manner with proper bracing anchorage, and foundation.

End of Article XIV

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**ARTICLE XV
FLOOD HAZARD AREAS**

Section 15.01 - INTENT AND PURPOSE

- A.** It is the purpose of this Section to significantly reduce hazards to persons and damage to property as a result of flood conditions in Clarence Township, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, as amended, and subsequent enactment's and the rules and regulations promulgated in furtherance of this program by the Housing and Urban Development, Federal Insurance Administration, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976.
- B.** Further, the intent of this Section is to protect human life, health and property from the dangerous and damaging effects of flood conditions; to minimize public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas; to prevent private and public economic loss and social disruption as a result of flood conditions; to insure that the public has access to information indicating that the location of land areas subject to periodic flooding; and to preserve the ability of floodplains to carry and discharge a base flood.

Section 15.02 - FLOOD HAZARD AREA DELINEATION

- A.** The flood hazard area shall overlay the zoning districts delineated on the official Clarence Township District Map. The boundaries of the flood hazard area shall coincide with the boundaries of the areas of special flood hazards (A zones) designated by the Federal Insurance Administration in the Flood Hazard Boundary Maps, which are hereby adopted by reference, and declared to be part of this ordinance.
- B.** When Flood Hazard Boundary Maps are not available, the flood hazard area boundaries shall coincide with the Intermediate Region Flood designations as established by the U.S. Army Corps of Engineers, "Flood Plain Information" reports, which are hereby adopted by reference, and declared to be a part of this ordinance.
- C.** When neither of the above documents are available, the Planning Department shall utilize flood hazard information to determine the Flood Hazard Area Boundaries. Such information may include:
 - 1. Testimony of reliable persons knowledgeable of the area concerning the highest known flood elevation;
 - 2. Estimates of the Flood Hazard areas or elevations provided by the Water Management Divisions of the Michigan Department of Natural Resources, and
 - 3. Engineering reports prepared in connection with County Drains Intercounty Drains, and other drainage projects which document the flood potential of a particular water course.
- D.** Any person aggrieved by the determination of a Flood Hazard Area Boundary may appeal said determination to the Board of Appeals pursuant to Article XVI of this ordinance.

Section 15.03 - DEVELOPMENT PERMITS

No new construction, including the erection of structures and the placement of mobile homes, or prefabricated buildings, within a flood hazard area shall occur, except upon issuance of a development permit in accordance with the requirements of Article XVII of this ordinance and the following standards:

- A.** All applicable permits shall have been issued by the appropriate authorities including but not limited to the following:
 - 1. Flood Plain Permit, or letter of no authority from the Water Resources Division of the Michigan Department of Natural Resources, pursuant to Act 24 of the Public Acts of 1929, as amended.
 - 2. Soil Erosion and Sedimentation Control Permit from the Calhoun County Drain Commissioner pursuant to Act 347 of the Public Acts of 1972 as amended.
 - 3. Inland Lakes and Streams Act and U.S. Army Corps of Engineers 404 Permit which area administered by the Michigan Department of Natural Resources pursuant to Public Act 346 of 1972 as amended.
- B.** All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above base flood level.
- C.** All mobile homes shall be placed on a lot which is elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above base flood level.

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- D. All new construction and substantial improvements of non-residential structures shall have either:
 - 1. The lowest floor, including basement, elevated to or above the base of flood level; or
 - 2. Be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall indicate the elevation to which the structure is flood proofed.
- E. Public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
- F. At least one access drive shall be provided to any building which has a finished grade elevation which is no lower than sixteen (16) inches below the base flood level in order to provide for potential evacuation of the building.

Section 15.04 - DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this Section shall not be considered a guarantee or warranty of safety from flood damage.

This ordinance does not imply that areas outside the flood hazard area will be free from flood damage. This ordinance does not create liability on the part of Clarence Township or any officers or employee thereof for any flood damages that result from reliance of this ordinance or any administrative decision lawfully made thereunder.

End of Article XV

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Article XVI

WATERFRONT PROPERTY RESTRICTIONS

Section 16.01 - INTENT AND PURPOSE

It is the intent of this Article to protect the environmental integrity and recreational value of the lakes in Clarence Township, and the value of property along such lakes, through controls intended to balance such protection interests with opportunities for the reasonable use of such lakes and shoreline areas. The Township's lakes and connecting water courses are a valuable and irreplaceable natural resource providing important recreational, aesthetic, economic, and residential opportunities to Township residents and visitors. The lack of management of the use of lake waters and shoreline areas will encourage the deterioration of wildlife habitat, water quality, property values and recreation opportunities, and threaten the health and safety of persons in, on or about the lake. The provisions of this Article are intended to protect the public health, safety and welfare by establishing reasonable limitations on boating activity, construction of docks and piers, and use of lake waters and shoreline areas.

Section 16.02 - DEFINITIONS. For the purposes of this Article, the following terms and phrases shall have the following meanings:

- A. "Commercial Marina" shall mean a facility for the docking of watercraft that is made available for use to non-owners of the lot for remuneration including, but not limited to rental fees and user fees, and which may provide accessory services including boat service, repair, storage, and sales.
- B. "Common Use Lot" shall mean a lot, parcel, or condominium unit, with water frontage on a lake, which allows, has been created to allow, and/or is proposed to allow, the common use thereof by non-owners of the common use lot, multiple owners of the common use lot, non-riparian land owners, the public, members of an association, occupants of a campground, or by more than the residents of one single family dwelling unit or, in the case of a two family dwelling on such lot, parcel, or condominium unit, by more than the residents of such two family dwelling. The phrase "common use lot" shall apply to such lot, parcel or condominium unit irrespective of its creation or recordation date, or the date when such common use was initiated or permitted to be initiated, including in the case of a deed, grant, reservation, easement, covenant, or other recorded instrument. The phrase "common use lot" shall not apply to a commercial marina or a recreation facility under the ownership of a township, county or state.
- C. "Dock" shall mean a permanent or seasonal structure, pier or platform extending from lake or water course shorelines on or over the waters of the lake or water course, designed or used for pedestrian passage and mooring of watercraft.
- D. "Dock", "Docked", and "Docking" shall mean: the mooring of watercraft to a dock or waterfront land or anchoring of watercraft adjacent to waterfront land.
- E. "Lake" shall mean a body of water situated wholly within the Township exceeding forty (40) acres in size and three (3) feet or more in depth in any location, together with all navigable water courses, streams, ditches, inlets and outlets connected to the lake.
- F. Ordinary High Water Mark: The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil.
- G. "Watercraft" shall include any vessel or device built, designed or used for transportation of humans on liquid water including, but not limited to boats, jet skis, canoes, rafts, and sailboats.
- H. "Waterfront Parcel" shall mean a lot or parcel of land which abuts the ordinary high water mark of a lake:
 - 1. defined by a separate legal description contained in a recorded conveyance or land contract in the case of unimproved land, or
 - 2. on which a dwelling is located in the case of improved land.
- I. Water Frontage: That portion of a lot, parcel, or condominium unit of land, of record as documented by an instrument duly recorded within the Calhoun County Register of Deeds, that abuts or intersects with the ordinary high water mark of a lake, irrespective of the nature or character of the ownership of such lot, parcel or condominium unit.

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Section 16.03 - SCOPE

This article shall not interfere with, abrogate or limit grants or easements existing prior to the date of adoption of this Article or lawful non-conforming uses of property within the Township as defined and limited by Article V of this ordinance, except as otherwise provided by Section 16.05(L).

Section 16.04 - REGULATIONS FOR WATERFRONT PARCELS:

No person shall place, erect or maintain a dock on any waterfront parcel, on any lake within the Township except in conformance with the following requirements:

- A. The dock shall not exceed one hundred fifty (150) feet in length.
- B. Not more than six (6) watercraft shall be docked at and/or launched from any waterfront parcel except as may be authorized by Section 16.05.
- C. The launching or docking of watercraft from or at any waterfront parcel for remuneration or any other consideration is prohibited.
- D. The placement of any anchored raft, dock or other structure, excluding boat lifts used or designed primarily for tethering or docking of watercraft on the waters of any lake unless such structure is attached to a waterfront parcel, is prohibited.
- E. Where a waterfront parcel is used or proposed to be used as a common use lot, such common use lot shall comply with the provisions of Section 16.05 in addition to the provisions of Section 16.04.

Section 16.05 - REGULATIONS FOR COMMON USE LOTS

- A. Common use lots are classified as special land uses/special exception uses and subject to the provisions of Article IV in addition to the provisions of this Article XVI.
- B. A common use lot shall comply with the regulations of the District in which it is located except as otherwise provided in this Article.
- C. The minimum area of a common use lot shall be 15,000 square feet plus one thousand (1,000) square feet for each dwelling unit or campground campsite served by the common use lot. The calculation of minimum lot area shall exclude any portion of the lot that consists of a swamp, marsh, wetland or bog as shown on the most recent U.S. Geological Survey Maps, Michigan Department of Natural Resources MIRIS maps, or National Wetland Inventory Maps, or have otherwise been determined to be a wetland by the Michigan Department of Environmental Quality.
- D. The minimum water frontage of a common use lot, measured by a straight line that intersects each side lot line of the common use lot at the ordinary high water mark, shall be the greater of 120 feet or 60 feet for each dwelling unit or campground campsite served by the common use lot. For example purposes, a common use lot that serves four dwelling units shall have a minimum water frontage of 240 feet.
 1. Alterations to the shoreline shall not be a basis for increasing the calculated water frontage including dredging, the addition of earth or fill material, or by the drainage of water.
 2. The calculation of water frontage shall exclude any frontage that consists of a swamp, marsh, wetland or bog as shown on the most recent U.S. Geological Survey Maps, Michigan Department of Natural Resources MIRIS map, or National Wetland Inventory map, or have otherwise been determined to be a wetland by the Michigan Department of Environmental Quality.
 3. In the case where the common use lot shall not be used for the docking or launching of motorized watercraft and/or is used as part of a campground, the Planning Commission may permit a lesser frontage than that of the 60 foot standard referenced in (2) above after finding that the proposed character and intensity of use complies with the provisions of Section 16.05(K).
- E. The minimum road frontage of a common use lot shall be one hundred twenty (120) feet.
- F. The minimum depth of a common use lot across a minimum of eighty percent (80%) of the lot shall be one hundred twenty (120) feet, measured as a straight line generally perpendicular from the road right-of-way to the ordinary high water mark.
- G. There shall be no vehicular parking on a common use lot except where expressly authorized according to an approved site plan that delineates the specific location and dimensions of such spaces, permissible hours of such parking, and screening measures to minimize negative impacts of such parking areas on adjacent properties.

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- H.** The following regulations shall apply to common use lots that permit watercraft docking.
1. The development of and the operation of a boat dock shall comply with all applicable local, county, state and federal rules and regulations, including but not limited to the rules and regulations of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, the Michigan Department of Natural Resources, and the Michigan Department of Environmental Quality.
 2. Docking and launching from any manmade channel or canal is prohibited.
 3. Docking and launching shall be restricted to only those individuals residing on or in the lot, parcel, condominium unit or dwelling unit identified as required in Section 16.05(J).
 4. Docking, launching, lake access, and storage of watercraft on a common use lot, and privileges for the same, shall not be leased, rented, conveyed, granted, gifted, or in any way used for compensation, except in conjunction with the lease or rental of the dwelling unit entitled to use the common use lot as provided by these regulations.
 5. Devices or structures from common use lots for docking, such as piers, shall be no closer than fifty (50) feet from one another and no more than one (1) pier or dock shall be established for the lesser of each sixty (60) feet of water frontage of such common use lot and each dwelling unit or campground campsite served by the common use lot.
- I.** No common use lot shall be used for any business, entertainment facility, or institutional or non-residential purpose, unless such use is authorized by the respective zoning district and all zoning permit and all other required approvals have been obtained.
- J.** Application for a common use lot shall require the submittal and approval of a deed, plat, covenant, restriction, easement, or other instrument conveying, granting and/or reserving the right to common use of the lot, parcel or condominium unit, specifically identifying the parcels, lots, properties, dwelling units or persons that are entitled to use of the common use lot. Such instrument shall include a restrictive covenant prohibiting the use of the common use lot for boat liveries, public or commercial beaches, commercial marinas, public boat launching sites, public access, or for any recreational use operated for profit, except where such uses and activities are the subject of the application for the common use lot and expressly approved. Said instrument shall further provide that the uses of the common use lot shall be limited to and enjoyed exclusively by the owners, occupants and designated users of the property included in said instrument, and that the right of use may not be further assigned, gifted, leased or rented.
- K.** In addition to compliance with the general approval standards for all special land use/special exception use according to Article IV, the following additional approval standards shall apply to common use lots. The applicant shall submit evidence documenting the extent to which the application complies with these standards.
1. The proposed use shall not unreasonably interfere with the rights of usage and enjoyment by owner's of property abutting the lake.
 2. The proposed use shall not unreasonably interfere with the enjoyment of owner's of property in the general vicinity of the common use lot.
 3. The proposed use shall not result in the overcrowding of the common use lot.
 4. The proposed use shall not result in the overcrowding or overuse of the lake or the lake's surface, and that the lake has surface area capacity available to handle increased traffic upon the lake without impairment to health, safety and welfare of the users of the lake.
- L.** Exemption for Existing Common Use Lots
1. Common use lots existing prior to the effective date of these regulations, that have been providing common use access to a lake through an association, subdivision, condominium deed, grant, reservation, covenant, or other recorded instrument, or by campground arrangement, are exempt from the regulations of this Section except under the following conditions:
 - a. where it is proposed to expand the geographical area, number of parcels, lots or persons that are provided common use access to a lake through said common use lot; or
 - b. where improvements on such common use lot, including repairs, shall result in the expansion, enlargement, or increase in intensity of use of such lot, parcel or condominium unit.

End of Article XVI

(Art. XVI Amended 5-11-09 / Ord. 24-2)

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Article XVII

ZONING BOARD of APPEALS (ZBA)

Section 17.01 - PURPOSE

The purpose of this Article is to establish a Zoning Board of Appeals (ZBA) pursuant to Public Act 110 of 2006, including its responsibilities, procedures, and standards of review, to ensure that the purpose of this Ordinance is fully and equitably achieved.

Section 17.02 - CREATION and MEMBERSHIP

- A. Establishment and Appointment of Members:** The ZBA first established by the Township Board pursuant to the Zoning Ordinance adopted on July 8, 1991, as amended, is hereby retained in accordance with Public Act 110 of 2006, as amended. The ZBA shall consist of five (5) members, appointed by the Township Board by majority vote. One (1) of the members shall be a member of the Planning Commission. One (1) regular or alternate member of a ZBA may be a member of the Township Board but shall not serve as the chairperson. The remaining regular members, and any alternate members, shall be selected from the electors of the Township residing within. The members selected shall be representative of the population distribution and of the various interests present in the Township. An employee or contractor of the Township Board may not serve as a member of the ZBA.
- B. Alternate Members:** The Township Board may appoint not more than two (2) alternate members to the ZBA, each appointed for a term of three (3) years. The alternate members shall be called on a rotating basis to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.
- C. Terms of Appointment:** Members shall be appointed for three (3) year terms except in the case of a Planning Commission and/or Township Board member serving on the ZBA, whose terms on the ZBA shall be limited to the time they are members of the Planning Commission or Township Board. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment. Members may be reappointed.
- D. Removal from Office / Conflict of Interest:** A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest constitutes malfeasance in office.

Section 17.03 - ORGANIZATION

- A. Rules of Procedure and Officers:** The ZBA may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The ZBA shall annually elect from its members a chairperson, vice-chairperson, and secretary.
- B. Meetings and Quorum:** Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the ZBA in its rules of procedure may specify. A majority of the total regular membership of the ZBA shall comprise a quorum. The ZBA shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act.
- C. Oaths and Witnesses:** The chairperson may administer oaths and compel the attendance of witnesses.
- D. Records:** The ZBA shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk, and shall be a public record according to the Freedom of Information Act. All minutes shall state the grounds for each determination, including findings of fact and conclusions.

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Section 17.04 - JURISDICTION

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The ZBA shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but shall have the power to act on those matters so specified in this Ordinance including Ordinance interpretations, variances, and the review of an order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance.

Section 17.05 - APPEALS FOR ADMINISTRATIVE REVIEWS

- A. Authority:** The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, or decision by the Zoning Administrator, Planning Commission or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of such body or official. The ZBA shall have all the powers of the body or official from whom the appeal is taken. However, in no case shall the ZBA hear an appeal of a Special Land Use decision. Such appeals shall be subject to circuit court appeal only.
- B. Standards:** The ZBA shall reverse or otherwise modify the decision of such body or official from whom the appeal is taken only if the ZBA finds that the action or decision appealed:
1. was arbitrary or capricious, or
 2. was based upon an erroneous finding of a material fact, or
 3. constituted an abuse of discretion, or
 4. was based upon erroneous interpretation of the Zoning Ordinance or zoning law, or
 5. did not follow required procedures.
- C. Procedures:**
1. Application Requirements: A written application for an appeal for administrative review shall be completed and filed with the Zoning Administrator on forms established for that purpose, within twenty-one (21) days after the date of the meeting during which the meeting minutes addressing the decision being appealed was approved. Application for an administrative review shall specify, at a minimum, the name, address, and phone number of the applicant; the decision being appealed; and the basis for the appeal. A minimum of seven (7) copies of the completed application shall be submitted along with any application fees.
 2. Stay: An appeal for an administrative review filed under this Section stays all proceedings in furtherance of the action appealed. However, if the officer or body from whom the appeal is taken certifies to the ZBA, after the notice of appeal is filed, that by reason of facts stated in the certification, a stay would in the opinion of such officer or body cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the ZBA or a circuit court.
 3. Record of Facts / Transmission of Record: Upon receipt of an application for an administrative review, the Zoning Administrator shall transmit to the ZBA all papers constituting the record upon which the action appealed from was taken. In hearing and deciding appeals under this Section, the ZBA's review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official or body from whom the appeal is taken.
 4. Hearing: Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.12. See Sec. 2.10 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney. See subsection (5) regarding participation at the hearing by a member of the ZBA who is also a member of the Planning Commission or the Township Board.
 5. Decision: The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse or otherwise modify the action subject to the appeal. A member of the ZBA who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing, deliberation, or vote, on the same matter that the member voted on as a member of the Planning Commission or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

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Section 17.06 - INTERPRETATIONS

- A. Authority:** The ZBA shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning, including the determination of the precise location of the boundary lines between zoning districts (see Article III).
- B. Procedures:**
1. **Application Requirements:** A written application for an interpretation shall be completed and filed with the Zoning Administrator on forms established for that purpose. Application for an interpretation shall specify, at a minimum, the name, address, and phone number of the applicant; the standard, regulation or provision requiring an interpretation; and a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation. A minimum of ten (10) copies of the completed application shall be submitted along with any application fees.
 2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.12. See Sec. 2.10 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
 3. **Decision:** The ZBA shall render a decision in the form of a motion containing a full record of the findings and interpretation of the ZBA, and basis for such interpretation. The concurring vote of a majority of the members of the ZBA shall be necessary to make an interpretation. In deciding on an interpretation, the ZBA shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the matter in question is contained, and all other relevant provisions in the Ordinance.
 - a. Prior to deciding a request for an interpretation, the ZBA may confer with Township staff and consultants to gain insight into the provision subject to interpretation and any consequences which may result from differing decisions.
 - b. A decision providing an interpretation may be accompanied by a recommendation to the Planning Commission for consideration of an amendment of the Ordinance.

Section 17.07 - VARIANCES

- A. Authority:** The ZBA shall have the power to authorize specific variances from specific site development standards contained in this Ordinance, such as lot area and width requirements, building height and setback requirements, yard width and depth requirements, lot depth to width ratio requirements, off-street parking and loading space requirements, and sign requirements. The ZBA shall not have the power to authorize variances from requirements of this Ordinance pertaining to permitted uses in a District.
- B. Standards:** The ZBA shall have the power to authorize variances from specific site development requirements provided that all of the standards listed below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.
1. That there are practical difficulties that prevent carrying out the strict letter of this Ordinance due to unique circumstances, such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property in relation to such conditions, that do not generally apply to other property or uses in the same district, and shall not be recurrent in nature. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of the particular parcel of land.
 2. That the practical difficulty or special condition or circumstance is not a result of the actions of the applicant.
 3. That the variance will relate only to property described in the variance application.
 4. That the variance will be in harmony with the purpose of this Ordinance and the intent of the District, including the protection of public health, safety and welfare in general and vehicular and pedestrian circulation specifically.
 5. That the variance will not cause a substantial adverse effect upon surrounding property including property values and the development, use and enjoyment of property in the neighborhood or District.
 6. That strict compliance with the site development requirement in question would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
 7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.

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C. Procedures

1. **Application Requirements:** Application for a variance shall specify, at a minimum, the name, address, and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; and a plot plan, site plan, or similar drawing that adequately illustrates the proposed improvements to the lot for which the variance is requested. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings, including any information the applicant may choose to submit to demonstrate conformance with the standards of subsection (B) above. A minimum of seven (7) copies of the completed application shall be submitted along with any application fees.
2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.12. See Sec. 2.10 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. **Decision:** The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance.
 - a. In granting a variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. See "Supplemental Provisions" regarding conditional approvals.
 - b. A variance shall become null and void unless the construction authorized by such variance has been commenced within six (6) months after the granting of the variance; and the occupancy or use of the land, structure, and/or building for which the variance was granted has taken place within one (1) year after the granting of the variance. The ZBA may extend this time limit upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that undermine the basis for the original issuance of the variance.
 - c. No application for a variance which has been acted upon shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original action, in the discretion of the ZBA.

Section 17.08 - REVIEW by CIRCUIT COURT

- A. **Circuit Court Review:** The decision of the ZBA shall be final. However, any party aggrieved by an order, determination or decision of the ZBA may obtain a review thereof in the Circuit Court provided that application is made to the Court within thirty (30) days after the ZBA issues its decision in writing signed by the chairperson, or within twenty-one (21) days after the ZBA approves the minutes of its decision. The Circuit Court shall review the record and decision of the ZBA to insure that the decision:
 1. Complies with the constitution and laws of the State.
 2. Is based upon proper procedure.
 3. Is supported by competent, material, and substantial evidence on the record.
 4. Represents the reasonable exercise of discretion granted by law to the ZBA.

End of Article XVII

(Art. XVII amended 6-14-10 / Ord. 24-3 to expand scope and clarification of ZBA provisions)