

**BARTON HILLS VILLAGE  
WASHTENAW COUNTY  
MICHIGAN**

**ORDINANCE NO. 8  
(ZONING ORDINANCE)  
(as amended by Ordinance No. 13, 11/12/84  
Ordinance No. 16, 4/20/87  
Ordinance No. 18, 10/17/94  
and Ordinance No. 23, 4/18/05)**

Preamble. This Ordinance is adopted pursuant to the authority conferred by Public Act 207 of Public Acts of 1921 of the State of Michigan and acts amendatory thereto, for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of Barton Hills Village by protecting and conserving the character and social and economic stability of the residential and other use areas; by securing the most appropriate use of land; preventing overcrowding of land and undue congestion of population; and by providing adequate light, air, and reasonable access, all in accordance with a comprehensive plan.

**ARTICLE I - SHORT TITLE**

Section 1.01. Short Title.

This Ordinance shall be known and may be cited as the Barton Hills Village Zoning Ordinance.

**ARTICLE II - DEFINITIONS**

Section 2.01. Definitions.

For the purpose of this Ordinance, certain terms, words, and phrases shall, whenever used in this Ordinance have the meaning herewith defined as follows:

- (a) Accessory Use, Building or Structure. A use, building or structure on the same lot with, and of a nature customarily incidental, subordinate and related to the principal use, building or structure.
- (a-1) Administrator or Village Zoning and Planning Administrator. The person designated as such in accordance with Article XI of this Ordinance. (per Ord. 16)
- (b) Dwelling Unit. One or more rooms with principal kitchen facilities designed as a unit for occupancy by only one family for cooking, living and sleeping purposes.

- (c) Dwelling, Single-Family. A detached building or structure containing only one dwelling unit.
- (c-1) Essential Services. The erection, construction, alteration or maintenance by public utilities, subject to reasonable rules and regulations of the Village or the Village of Hills Village of gas, electrical, or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection therewith, but not including buildings, that are necessary for the furnishing of adequate service by such utilities or the Village to property within the Village, but not for property outside the Village limits except by special exception. (per Ord. 16)
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- (d) Family. One or more persons related by blood or marriage occupying a dwelling unit and living as a single, non-profit housekeeping unit, or a collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie or organization, which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature. (per Ord. 16)
- (e) Non-Conforming Building or Structure. A building or structure lawfully constructed prior to the adoption or amendment of this Ordinance which does not conform to the requirements of the district in which it is located.
- (f) Non-Conforming Use. A use of land which was lawful prior to the adoption or amendment of this Ordinance that, after the adoption or amendment of this Ordinance, does not conform to the regulations of the district in which it is located.
- (g) Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or any portion of a building between the topmost floor and the roof having a usable floor area equal to at least 50 per cent of the usable floor area of the floor immediately below it.
- (h) Structure. Anything constructed, erected or placed with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground.
- (i) Yard, Front. An open, unoccupied space extending the full width of a lot and situated between the street line and the front building line.
- (j) Yard, Rear. An open space extending the full width of a lot and situated between the rear line of the lot and the rear building line of the principal building.
- (k) Yard, Side. An open space situated between the side building line of the principal building and the adjacent side line of the lot, extending from the rear line of the front yard to the front line of the rear yard.

- (1) Zoning Compliance Certificate. A certificate issued by the Village Zoning and Planning Administrator prior to the commencement of any construction or other land use in the Village, certifying that he has examined the detailed plans for any building or structure proposed and plans for any other proposed uses, and that such plans conform to the rules, regulations and specifications required by this Ordinance for the appropriate zoning district.

### **ARTICLE III - ZONING DISTRICTS AND MAP**

#### Section 3.01. Districts Established.

In order to regulate and restrict the location of trades or industries and the location of dwellings, buildings or other structures erected or altered for specified uses, Barton Hills Village is hereby divided into "Use Districts" as follows:

"R-1"	Single Family Residential District
"R-C"	Recreation - Commercial District
"AG-1"	Agricultural District

#### Section 3.02. District Boundaries.

The boundaries of such districts are shown upon the map attached hereto and made a part of this Ordinance, being designated as the "Use District Map" of Barton Hills Village, Michigan, and the said map and all notations, references, and other things shown thereon shall be as much a part of this Ordinance as if the matters and things set forth on said map were all fully described herein; Provided, however, that said map may be amended in any manner, from time to time, by Ordinance, in which case such changes described shall be equally as effective as though incorporated in the map aforesaid.

### **ARTICLE IV - GENERAL PROVISIONS**

#### Section 4.01. Interpretation.

In interpreting and applying the provisions of this Ordinance they shall be deemed 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 or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance nor is it intended by this Ordinance to interfere with or 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 buildings or requires larger open spaces than are imposed or required by such other laws, ordinances, rules, regulations, or permits, or by easements, covenants, or agreements, the provisions of this Ordinance shall control.

Section 4.02. Scope of Regulations.

The provisions of this Ordinance are declared to be all inclusive of the subject matter therein treated as of the date of its adoption, except (1) buildings, structures, and uses deemed lawful prior to the effective date of this Ordinance, and (2) buildings, structures and uses for which a building permit was issued prior to the effective date of this Ordinance; Provided, however, that buildings, structures and uses in either excluded category shall thereafter be subject to the provisions of this Ordinance governing non-conforming uses (Article IX).

Section 4.03. Lot Designation.

No land area designated and developed as a single lot shall be divided to create two or more lots unless the original and each newly created lot complies to the schedule of specifications, regulations, and standards herein declared for the district in which the lots are located.

Section 4.04. Accessory Buildings, Structures and Uses.

Accessory buildings, structures and uses shall be permitted in all zoning districts in compliance with the provisions of this Ordinance and shall be limited to:

- (a) Buildings and structures which are customarily associated with or incidental or essential to the principal use; Provided, however, that an accessory building shall not be used for residential purposes.
- (b) Signs in the "R-C" District are subject to the regulations pertaining to said District.
- (c) Off-street parking and related vehicular use areas shall be an accessory use in any zoning district.

Section 4.05. Fences, Walls, Satellite Antennas, Solar Panels and Windmills.

- (a) Permit Required. It is hereby determined that fences, walls, satellite antennas, solar panels and windmills are structures which when constructed, erected or placed with a fixed location on the ground require review and approval of the Village of Barton Hills Village prior to the installation thereof.
- (b) Compliance with Code. All structures described in subsection (a), above, shall be considered structures subject to all Ordinances of this Village relating to structures, including applicable provisions of Ordinance 7 (Building Code) and Ordinance 8 (Zoning) as amended.
- (c) Application for Permit. Applications for a permit to install, change or alter a structure described in subsection (a) hereof shall be submitted to the Village Director of Public Safety. The application shall include a plot plan showing the proposed location of the installation, site plan, including building locations, of the lot or premises on which the same is to be installed and of all abutting properties, including properties abutting on the other side of the street from the proposed location. The application shall also include a

detailed description of the proposed installation including a picture or sketch of all elements thereof showing the nature, kind, shape, height, material, color and location of such structure which would be exposed to view from adjacent properties, shall show a grading plan of the plot to be built upon, and shall contain a statement as to the visual impact of the installation on such abutting properties. The application shall also contain detailed information as to the construction and stability thereof, together with such other information as may be required by the Village Director of Public Safety.

- (d) Village Council Consideration. The Director of Public Safety shall submit the application, together with such other information as the Director of Public Safety shall deem pertinent, together with his report and recommendations, to the Village Council and shall notify the owners of all abutting properties of the application and of the date on which the request for permit will be considered by the Village Council.

Following receipt of the application and other information from the Director of Public Safety, the Village Council shall consider the application and shall give all interested property owners an opportunity to be heard on the matter. The Village Council may thereafter grant the request for permit, deny the request, or approve the request with conditions attached. Denial of a request which otherwise complies with the specific requirements of this Ordinance and of other applicable Ordinances shall be based upon a finding that the installation would have a substantial detrimental effect upon one or more adjoining private or public properties or would otherwise be contrary to public safety, health or welfare, specifying the basis for such finding. The conditions which may be attached may relate to the following: location, size, elevation, color, screening, landscaping, fencing, or other matters having impact on adjoining properties.

- (e) No deviation from this Ordinance shall be permitted except by a grant of a zoning variance by the Board of Village Trustees pursuant to the provisions of Ordinance 8. (section 4.05 per Ord. 13)

#### Section 4.06. Essential Services.

Essential services shall be permitted as authorized and regulated by law and other Ordinances of the Village of Barton Hills, it being the intention hereof to exempt such essential services from the application of this Ordinance. (per Ord. 16)

#### Section 4.07. Yard Requirement Exemptions.

The following may be located anywhere on a lot: open and unroofed terraces, patios, porches and steps; awnings; flag poles; hydrants; laundry drying equipment; outdoor cooking equipment; sidewalks and private driveways; trees, plants, shrubs and hedges; mailboxes; and light poles; Provided, however, that such location will not result in impairing traffic sight lines at street intersections or driveway intersections with streets. (per Ord. 16)

#### Section 4.08. Site Plan Review.

- (a) Authority. The Barton Hills Village Council shall have the authority to review and

approve or deny site plans.

- (b) Developments Requiring Site Plan Approval. The following buildings, structures, and uses shall require site plan approval.
  - (1) A building containing two or more dwelling units.
  - (2) Any principal non-residential building or structure or addition thereto.
  - (3) Special land uses.
  - (4) Any condominium development.

(for remaining text of Section 4.08, see pages 21-26) (per Ord. 18)

Section 4.09. Special Land Uses.

- (a) General. This Ordinance is based on the division of the Village into districts in each of which certain uses are permitted by right. In addition there are certain other uses that are appropriate and compatible with the uses permitted by right, but not at every or any location therein, without conditions being imposed to secure compatibility with neighboring properties. These uses are identified as special land uses.

This Ordinance therefore requires approval of uses listed in the several zoning districts as special land uses and specifies in this section the procedures and standards to be followed in approving permits for such uses. If compliance with the procedures and standards for a special land use is found, the right to a special land use permit shall exist, subject to conditions that may be imposed. No special land use shall commence until a special land use permit is issued in accordance with this Ordinance.

- (b) Authority to Grant Permits. The Village Council shall have the authority to approve special land use permits.
- (c) Application. An application for a special land use permit shall be filed with the Village Clerk.
- (d) Fee. The fee for the special land use permits shall be set by resolution of the Village Council.
- (e) Information Required. An application for a special land use permit shall contain the following information.
  - (1) The applicant's name, address, and phone number.
  - (2) Names and addresses of all record and known owners and proof of ownership.
  - (3) The applicant's interest in the property. If the applicant is not the fee simple

owner, the owner's signed authorization for the application.

- (4) Legal description, address, and tax parcel number of the property.
  - (5) A detailed description of the proposed use.
  - (6) A site plan meeting the requirements of Section 4.08, herein.
- (f) Public Hearing.
- (1) Date. Upon receipt of the application, the Clerk shall set a date for the public hearing thereon.
  - (2) Notification. The Clerk shall provide notification as required by the City or Village Zoning Act (Act 207, Public Acts of 1921, as amended).
- (g) Village Council Action. The Council shall review the application in terms of the comments made at the public hearing and in relation to the standards in this section. The Board shall approve, approve with conditions, or deny the special use permit within 90 days of the application date. This period may be extended by agreement between the applicant and Council. The Council's decision, the basis for the decision, findings of standards, and all conditions imposed shall be made a part of the record of the meeting at which action was taken.
- (h) Standards. The Village Council shall review the application in terms of the following standards and shall make findings thereon.
- (1) Will be harmonious and in accordance with the objectives and regulations of this Ordinance.
  - (2) Will be compatible with the natural environment and existing and future land uses in the vicinity.
  - (3) The proposed use will be adequately served by public facilities and services.
  - (4) The proposed use will not be detrimental, disturbing, or hazardous to existing or future neighboring uses, persons, property, or the general welfare.
  - (5) The proposed use will not create additional requirements at public costs for facilities or services that will be detrimental to the economic welfare of the community.
- (i) Conditions of Approval. In approving a special land use the Village Council may impose conditions it deems necessary to achieve the purposes and standards of this Ordinance. Failure to comply with any such conditions shall be a violation of this Ordinance. An approved special land use permit, including all conditions, shall run with the land and shall be binding upon all successors in the property. The conditions shall remain

unchanged except upon mutual consent of the Village Council and landowner. Any such changes shall be entered into the minutes of the Council meeting at which the action is taken. A public hearing shall be held on any proposed change, as required for an original application.

- (j) Continuation and Expansion.
  - (1) Continuation. Any use lawfully existing on the date of adoption or amendment of this Ordinance and that is permitted as a special land use under this Ordinance or amendment shall be deemed a conforming use, and may continue without approvals required in this section.
  - (2) Expansion. Expansion of a special land use shall require a special land use permit.
- (k) Re-Application. An application for a special land use permit that has been denied in whole or in part by the Village Council shall not be resubmitted for a period of 60 days from the date of denial, except on grounds of new evidence of changed conditions determined by the Council to be valid.
- (l) Revocation of Permit. The Village Council may, after hearing and cause shown, revoke a special land use permit in case of false statement or misrepresentation of fact on which the permit was approved, or in case of failure to correct violations of this Ordinance, or in case of lack of compliance with the approved site plan or any conditions of approval of the permit.
- (m) Appeals to Board of Zoning Appeals. A decision on a special land use permit shall not be appealed to the Board of Zoning Appeals.

(Section 4.08 and 4.09 per Ord. 18)

## **ARTICLE V - "R-1" RESIDENTIAL DISTRICT**

### Section 5.01. "R-1" District.

In the "R-1" Residential District, no building or premises shall be used and no building shall be hereafter erected or altered unless otherwise specifically provided for in this Ordinance, except for the following uses:

- (a) Principal Uses and Buildings.
  - (1) Single family dwelling.
  - (2) Municipal buildings.
  - (3) Municipal parks.

(b) Accessory Uses and Buildings.

(1) Private garage the capacity of which shall not exceed one automobile for each 20 feet of lot frontage, with a maximum capacity of 3 automobiles.

(2) Other such accessory uses and buildings when located on the same lot as a permissible use; Provided, that such accessory use or building shall not be

used

or occupied for any business, occupation, profession or trade, or for dwelling purposes.

Section 5.02. Special Land Uses.

(a) Private recreational club(s).

(b) Playground(s).

(Section 5.02 per Ord. 18)

Section 5.03. Building Height, Area, and Yard Requirements.

In the "R-1" District the following requirements shall apply:

(a) Minimum lot area shall be one acre.

(b) Minimum lot width shall be 150 feet.

(c) Set back	Minimum feet
Front yard	35
Side yard, each	20
Side yard, corner lot, street side	30
Rear yard	30

(d) Maximum height

Dwelling - feet - 35

Dwelling - stories - 2 1/2

Accessory building - feet- 15

**ARTICLE VI - "R-C" RECREATION-COMMERCIAL DISTRICT**

Section 6.01. Preamble.

The "R-C" Recreation-Commercial District is designed for the convenience shopping of persons residing in the adjacent residential area and for recreational uses and activities of a general nature.

Section 6.02. Principal Uses Permitted.

- (a) Any generally recognized retail business which supplies commodities or services on the premises, for persons residing in adjacent residential areas such as: groceries, meats, dairy products, baked goods, or other foods, drugs, dry goods, and notions, or tailor, dressmaker, barber, beauty shop, appliance repair shop or photography studio.
- (b) Restaurants, or other places serving food or beverage, except those having the character of a "drive-in" so called, and as herein defined, and subject to the provision of subsection (c) (3) hereof.
- (c) Other uses similar to the above and subject to the following restrictions:
  - (1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on premises where produced.
  - (2) All business, servicing or processing except off-street parking or loading shall be conducted within completely enclosed buildings.
  - (3) In any restaurant, and in any other place serving food or beverage, no service of food or beverage shall be provided outside of an enclosed structure nor within the parking area and no partaking of food or beverage within the parking area shall be permitted by the person, firm or corporation operating or controlling said establishment.
- (d) Accessory structures, uses and signs customarily incidental to the above permitted uses subject to the following restrictions:
  - (1) Advertising signs only when pertaining to the sale, rental or use of the premises on which it is located, or to goods sold or activities conducted thereon.

Section 6.03. Special Land Uses.

- (a) Golf course, but not including golf driving range operated separately from a golf course.
- (b) Country club(s).
- (c) Swimming pool(s).
- (d) Playground(s).
- (e) Tennis court(s).

(Section 6.03 per Ord. 18)

Section 6.04. Required Conditions.

Since this District is for the convenience shopping of persons residing in adjacent residential

areas, permitted uses shall not include business in the character of drive-ins or open front stores; nor shall it include dwellings.

Section 6.05. Area and Bulk Requirements.

In the "R-C" District the following schedule shall apply:

- (a) With approved central water and sewer systems:

Minimum lot area - 10,000 square feet

Minimum lot width - 80 feet

- (b) Without approved central water and sewer systems:

Minimum lot area - one acre

Minimum lot width - 150 feet

(Sec. 6.04 amended per Ord. 16)

## **ARTICLE VII - "AG-1" AGRICULTURAL DISTRICT**

Section 7.01. "AG-1" District.

In the "AG-1" Agricultural District, no building or premises shall be used and no building shall be hereafter erected or altered, except for the following uses:

- (a) General and specialized farming and other recognized agricultural activities, provided that any area kept as idle cropland shall be treated to prevent soil erosion by wind or water and excessive growth of obnoxious weeds and shrubs.
- (b) Public and private conservation areas and structures for the development, protection and conservation of open space, watersheds, water, soil, forest, and wildlife resources.
- (c) Municipal buildings.
- (d) Municipal park and recreation facilities.
- (e) Storage of Village vehicles and equipment.

(subsections (c), (d), and (e) per Ord. 16)

Section 7.02. Special Land Uses.

- (a) Private recreational club(s).

- (b) Playground(s).
- (c) Swimming pool(s).
- (d) Tennis court(s).

(Sec. 7.02 per Ord. 18)

## **ARTICLE VIII - OFF-STREET PARKING**

### Section 8.01. General Requirements.

- (a) Excepting parking spaces for single-family dwellings, parking spaces shall not be constructed in such a manner that vehicles can be backed directly into any street or highway.
- (b) For all dwellings, regardless of the zoning district in which located, there shall be at least one off-street parking space, including garages and carports.
- (c) Except for one truck of not more than three-quarter ton rating for any family unit, no commercial vehicles, including tractors, trucks, busses, other self-propelled vehicles and house trailers, shall be parked in any residential zoning district, unless parked in a completely enclosed building; Provided, however, that in case of an emergency or in unusual circumstances, a temporary non-renewable parking permit may be issued by the Zoning and Planning Administrator for a period not to exceed six months.
- (d) Off-street parking areas designed to accommodate five or more vehicles at one time shall be:
  - (1) Located not less than five feet from any property line;
  - (2) Separated from the adjacent property line by a protective wall, curb or wheel stops;
  - (3) Covered by a hard surface or otherwise treated to lay dust and prevent erosion - this requirement applies equally to all parking spaces, entrances, exits and interior circulation drives;
  - (4) Appropriately graded and drained to prevent drainage or seepage of water and waste onto adjacent property;
  - (5) Clearly marked to outline individual parking spaces;
  - (6) Located at a reasonable distance on the premises or at a reasonable distance from the building, structure or the clientele it is designed to serve;

- (7) Screened or shielded, if in or adjacent to a residential zoning district, by a buffer one of landscaping in compliance to the provisions of this Ordinance.

Section 8.02. Spaces Required.

Off-street parking shall be provided as follows:

<u>Type of Use</u>	<u>Number of Parking Spaces</u>
Personal services	One for each full-time occupant and employee, and one additional for each 100 square feet of floor space occupied.
Retail business	One for each full-time employee and one additional for each 200 square feet of floor spaced occupied.
Restaurants and other establishments offering food and beverages for sale	One for each three full-time employees and one additional for each three service places for customers.
Recreation and sports	One for each full-time employee and two additional for each three active participation positions.

**ARTICLE IX - NON-CONFORMING USES**

Section 9.01. Continuity of Non-Conforming Uses.

A use classified non-conforming at the date of the adoption or amendment of this Ordinance may be continued provided that:

- (a) The character of the use shall not be altered, increased or intensified, or a secondary use initiated, unless the Board of Appeals authorizes a change to a use deemed to be more nearly compatible with the permitted uses in the zoning district.
- (b) The use shall be continuous; an interruption of six months shall be interpreted as an abandonment or discontinuance of the use.
- (c) All buildings and structures on the premises shall be maintained in an acceptable state of repair.
- (d) The use shall be confined to the land area originally assigned to the use and it shall not be enlarged or expanded.
- (e) In case the use is destroyed, damaged or interrupted by fire or by another destructive force, the use shall not be re-established as a non-conforming use unless the cost of repair or rehabilitation is less than fifty percent of the estimated replacement cost. The estimate

shall be confirmed by the Zoning and Planning Administrator.

Section 9.02. Continuity of Non-Conforming Buildings and Structures.

A building or structure classified non-conforming at the date of the adoption or amendment of this Ordinance and subject to the exceptions herein declared may be continued or remain in use provided that:

- (a) The character of the use therein housed shall not be altered, increased or intensified, or a secondary use initiated, unless the Board of Appeals authorizes a change to a use deemed to be more nearly compatible with the permitted uses in the zoning district.
- (b) The building or structure shall not be enlarged, expanded or moved from the original location.
- (c) No structural alterations designed to prolong the life of the building or structure shall be permitted, and no structural alteration whatever shall be made except by order of the Zoning and Planning Administrator to preserve public health and safety or to bring the building or structure to conformity to the specifications, regulations and standards in the zoning district in which it is located.
- (d) Customary repair and maintenance shall be required except that repair and maintenance costs in any twelve month period shall not exceed ten percent of the estimated cost of replacement.
- (e) No non-conforming building or structure damaged or destroyed by fire or by another destructive force shall be rebuilt or rehabilitated unless:
  - (1) Such cost is less than fifty percent of the estimated replacement cost - the estimate shall be confirmed by the Zoning and Planning Administrator; or
  - (2) The building or structure after rebuilding or rehabilitation complies to the specifications, regulations and standards of the zoning district in which it is located.

**ARTICLE X - BOARD OF ZONING APPEALS**

Section 10.01. Membership.

The Village Council shall act as a Board of Zoning Appeals upon all questions arising under this Ordinance. The President shall be the Chairman of the Board of Zoning Appeals, and shall appoint a Vice-Chairman and such other officers as he may deem necessary. The Village Clerk shall be the Secretary of the Board of Zoning Appeals. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant upon which the

Board is required to pass under this Ordinance or to effect any variation in this Ordinance, except that a concurring vote of two-thirds of the members of the Board shall be necessary to grant a variance from uses of land permitted in this Ordinance. (amended per Ord. 16)

Section 10.02. Jurisdiction.

The Board of Zoning Appeals, in conformity with the provisions of this Ordinance and of Act 207 of the Public Acts of 1921, as amended, may reverse or affirm, wholly or in part, or may modify the order, requirements, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers to hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.

Section 10.03. Variances.

The Board, after public hearing, shall have the power to decide applications filed as hereafter provided, for variances:

- (a) Where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the Zoning and Planning Administrator or other administrative officer in the carrying out or enforcement of the provisions of this Ordinance.
- (b) Where by reason of the exceptional narrowness, shallowness or shape of a specific piece of property on the effective date of this Ordinance, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the land, building or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties or would cause undue hardship.
- (c) Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance relating to construction, structural changes in equipment, or alterations of building or structures, or the use of land, building or structures so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

Section 10.04. Special Exceptions.

The Board of Zoning Appeals, after public hearing, shall have the power to grant the special exceptions herein authorized.

Section 10.05. Conditions of Approval.

In authorizing a variance or exception, the Board may, in addition to the specific conditions of approval called for in this Ordinance, attach thereto such other conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

Section 10.06. Procedure.

The following procedure shall be required:

- (a) An appeal for variance from any ruling of the Building Inspector or other administrative officer administering any portion of this Ordinance may be taken by any person or any governmental department affected or aggrieved. Notice of such appeal shall be filed with the Administrator and shall specify the grounds of such appeal, and it shall be filed within fifteen days after the order, requirements, decision or determination appealed from is made.
- (b) An application for special exceptions authorized by this Ordinance may be taken by any person or governmental department affected.
- (c) The Board of Zoning Appeals shall not consider any application or appeal without payment by the applicant or appellant to the Village Clerk of a fee in the amount of twenty-five (\$25.00) dollars. (subsection (b) and (c) per Ord. 16)
- (d) When an application or appeal has been filed in proper form and with the required data, the Secretary of the Board shall immediately place the said application or appeal upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be served. Such notices shall be served personally or by mail at least seven days prior to the day of such hearing, upon the applicant or the appellant, the Administrator and the owners of record of property within three hundred feet of the premises in question, which notices, if by mail, shall be addressed to the respective property owners of record at the address given in the last assessment roll. Any party may appear at such hearings in person or by attorney.
- (e) Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearings unless the Board so decides.

Section 10.07. Decisions of the Board.

The Board shall decide all applications and appeals within thirty days after the final hearing thereon. A copy of the Board's decision shall be transmitted to the applicant or appellant, and to the Administrator. Such decisions shall be binding upon the Administrator and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board. A decision of the Board shall not become final until the expiration of five days from the date such decision is made unless the Board shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify on record.

## ARTICLE XI - ZONING AND PLANNING ADMINISTRATOR

### Section 11.01. Zoning and Planning Administrator.

The Village President shall appoint an officer to be known as the Zoning and Planning Administrator, subject to the approval of the Village Council. The Administrator shall serve at the pleasure of the President.

### Section 11.02. Powers and Duties.

The Administrator in the discharge of his duties shall:

- (a) Enforce the provisions of this Ordinance.
- (b) Perform all acts of inspection which may be required by the laws of the State of Michigan and by this Ordinance.
- (c) Report promptly to the President all violations and acts which pose imminent threats of violations of this Ordinance.
- (d) Take such measures as are necessary to abate violations.
- (e) Issue, and where necessary revoke, all permits, certificates, applications, and other forms required by this Ordinance.
- (f) Collect and deposit with the Village Clerk all fees and charges which may be required by the Village Council in the administration of this Ordinance.

### Section 11.03. Zoning Compliance Certificate.

- (a) Approval. Anyone who proposes to construct, alter or move a building or structure, or who proposes to change the type of land use or to exercise any right claimed under the authority of this Ordinance shall, in addition to obtaining any necessary building permit under the State Construction Code, obtain a Zoning Compliance Permit from the Administrator, who shall not issue any such permit unless the proposed construction, alteration or movement does in fact comply in all respects with the requirements of this Ordinance.
- (b) Application. The owner(s) of the property, or a person authorized in writing to act on behalf of the owner(s), shall submit a signed and dated written request to the Administrator which describes the project for which a Zoning Compliance Certificate is requested.
- (c) Site Plan. The request for a zoning compliance certificate shall be accompanied either by a site plan as required in this section, or by a site plan as required under Section 4.08, whichever applies, and a copy of the building plans to be submitted to the Building Inspector. If a site plan is not required under Section 4.08, a site plan shall be submitted

as required by this section. Such site plan, which may be a sketch prepared by the owner or their agent, shall be drawn to scale, submitted in two (2) copies, and shall provide the following information:

- (1) Scale, date, and north point;
  - (2) Location, shape and dimensions of the lot;
  - (3) Legal description, tax parcel number, and address of the lot;
  - (4) Location and dimensions of existing structures on the property;
  - (5) Dimensions of the structure to be constructed, its location on the property, and its distance to other relevant structures and lot lines;
  - (6) A clear statement which sets forth the use of all structures on the property and the intended use of the proposed structure; and
  - (7) Additional information as required by the zoning and planning administrator for purposes of determining compliance with this ordinance. Such additional information may require the applicant to have a surveyor, or other person, mark the boundary of any relevant portion of the property.
- (e) Amendments. Any changes to the application and site plan submitted by the applicant must be noted on the application and site plan and approved by the Administrator.
- (f) Compliance with Plans and Applications. Building permits and certificates of zoning compliance issued on the basis of plans and applications approved by the Administrator and the Building Inspector authorize only the use, design and construction set forth in such approved plans and applications, and no other use, design, or construction. Use, design or construction different than that authorized shall be deemed a violation of this Ordinance and punishable as provided in Sections 12.01 and 12.02.

#### Section 11.04. Certificate of Occupancy.

No building or structure shall be occupied or used until a certificate of occupancy has been issued; Provided, however, that a temporary certificate may be issued for a completed part of a building, but no such certificate shall be issued for a period in excess of six months. Otherwise a certificate of occupancy shall not be issued prior to final inspection. The issuance of an untimely or erroneous certificate shall not be interpreted as waiving any provisions of this Ordinance.

No certificate shall be issued unless the proposed occupancy complies in all respects with the requirements hereof.

#### Section 11.05. Expiration Date.

Each permit and certificate issued under the authority of this Ordinance shall carry an expiration date and unless the designated use is commenced within the prescribed period, shall become null and void on the date designated, e.g., Use Permit, 90 days after the date of issue; zoning

compliance certificate, 365 days after date of issue; and all other permits and certificates, after such time as shall be fixed by the Village Council; Provided, however, that designated time periods may be once renewed by the Board of Appeals, and provided further that the Board of Appeals, after notice and hearing, may rescind a zoning compliance certificate whenever an authorized but uncompleted project is permitted to languish, or appears to have been abandoned over any three year period. (Article XI per Ordinance 23)

## **ARTICLE XII - VIOLATIONS, PENALTIES AND AMENDMENTS**

### **Section 12.01. Revocation of Certificate or Permit.**

Failure to disclose all pertinent facts or to make a true representation of facts and circumstances in securing a zoning compliance certificate, a building permit or a certificate of occupancy, or failure to comply with the provisions of this Ordinance, shall be sufficient reasons for the revocation of any certificate or permit in which case it shall be the duty of the Administrator to revoke the certificate or permit and to take any further action which is deemed necessary to halt all activities which may have been initiated under the assumed authority of the revoked certificate or permit.

### **Section 12.02. Violations and Penalty.**

Any building or structure erected, altered, razed or converted, or any use carried on in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter shall be punished for each offense upon conviction by a fine of not more than one hundred (\$100.00) dollars, and cost of prosecution, or by imprisonment in the County Jail for a period of not exceeding 90 days, or by both fine and imprisonment, in the discretion of the Court. Each day that a violation is permitted to exist shall constitute a separate offense.

### **Section 12.03. Amendments.**

The Village Council may, from time to time, amend, supplement, or change by Ordinance, the boundaries of districts or regulations herein established, in accordance with the State law.

### **Section 12.04. Separability.**

Should any section, clause or provisions of this Ordinance be declared by the Court to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

### **Section 12.05. Effective Date.**

This Ordinance shall be effective after publication of this Ordinance in accordance with the Barton Hills Village Charter.

Ordinance No. 8 adopted December 8, 1975  
Elizabeth Langford, President  
Carroll T. Sanders, Clerk

Ordinance No. 16 contains the following additional provisions:

- Section 2. The Village Zoning Map is amended to be as set forth in the Zoning Map dated May 18, 1987. The Village Clerk shall authenticate said Map and the original thereof shall be permanently filed in the office of the Village Clerk. The zones as now established are not changed by the adoption of the new map.
- Section 3. Penalty. Any violation of this Ordinance shall be subject to the penalties provided in Section 12.02 of Ordinance No. 8.
- Section 4. Effective Date. This Ordinance shall be effective after publication of this Ordinance in accordance with the Barton Hills Village Charter.

Ordinance No. 18 and Ordinance No. 23 contain the following additional provisions:

Section 6. Separability; Repeal.

- (a) Separability. Should any section, clause or provisions of this ordinance be declared by the Court to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- (b) Repeal. Any ordinance, section, subsection or provision thereof which is inconsistent with this ordinance is to the extent of such inconsistency hereby repealed.

Section 7. Publication; Effective Date.

Within fifteen (15) days after adoption, this ordinance shall be published once in a newspaper having general circulation in the Village. This ordinance shall take effect one (1) day after the date of publication. A copy of this ordinance may be purchased or inspected by contacting the Clerk of the Village during regular business hours.

Section 4.08. Site Plan Review.

- (a) Authority. The Barton Hills Village Council shall have the authority to review and approve or deny site plans.
- (b) Developments Requiring Site Plan Approval. The following buildings, structures, and uses shall require site plan approval.
  - (1) A building containing two or more dwelling units.
  - (2) Any principal non-residential building or structure or addition thereto.
  - (3) Special land uses.
  - (4) Any condominium development.
- (c) Certificates and Permits. The Zoning and Planning Administrator, hereinafter identified as the Administrator, shall not issue a zoning compliance certificate and the Building Inspector shall not issue a building permit for any construction for which site plan approval is required until a site plan therefore has been approved and is in effect. The Building Inspector shall not issue a certificate of occupancy for any building or structure for which site plan approval was required until the Administrator has certified that the building and site improvements have been completed in accordance with the site plan approved by the Village Council, or that financing guarantees therefore have been provided in accordance with Section 4.08 (o) herein.
- (d) Commencement of Construction. No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development for which site plan review is required until a site plan is approved and is in effect.
- (e) Application. An application for site plan review shall be filed with the Village Clerk.
- (f) Information Required. A site plan application shall provide the following information:
  - (1) Legal description: lot line dimensions and bearings; tax parcel number; address; location of nearest section corner or quarter corner.
  - (2) Location map.
  - (3) Zoning information:
    - (a) Zoning district of site and all adjacent property.
    - (b) Land use of site and adjacent property.
    - (c) Proposed use of site.

- (d) Lot area, excluding road right-of-way.
  - (e) Ground floor and total floor area, existing and to be constructed.
  - (f) Number and types of dwelling units and density for residential projects.
  - (g) Building height, in feet and number of floors.
  - (h) Required yards, delineated on the site plan.
  - (i) Number of parking spaces required, with supporting calculations; dimensions of spaces and parking lot aisles.
  - (j) Existing and proposed deed restrictions.
- (4) Location and overall dimensions of existing structures and drives.
  - (5) Surface type and width of streets adjacent to the site; surface elevations of existing streets at the intersection of each proposed driveway or street.
  - (6) USGS based bench mark on the site.
  - (7) Existing utilities serving the site -- location, size, inverts, fire hydrants, gatewells, manholes, and catch basins; location and elevations of ditches, culverts, and bridges adjacent to the site; location of utility poles and lines; location and size of natural gas lines and appurtenances.
  - (8) Existing topography and proposed grading at no less than 2 foot contour intervals; off-site elevations within 100 feet of each property line not bordered by a street, to assist in determining proper grading and drainage.
  - (9) Proposed buildings and structures -- location; dimensions; distance between; finished floor elevations; elevations at building corners.
  - (10) Location and type of natural features on or adjacent to the site, such as woods, streams, wetlands, fence rows, individual trees 8" or larger caliper where not located in a woods; 100 year flood hazard area; natural features to remain or to be removed.
  - (11) Existing building, structures, and other improvements to remain or to be removed.
  - (12) Proposed streets and drives -- names; right-of-way or easement width; surface type and width, including typical cross sections; surface elevations; location and type of curbs, where proposed; length and width of turning lanes; curve radii; high points of driveways.
  - (13) Proposed parking area -- number and dimensions of spaces; location of each

space; type of surface, including typical cross sections; aisle width; angle of spaces; location of wheel stops, where applicable.

- (14) Proposed loading/unloading areas -- location; dimensions; surface type, including typical cross sections.
- (15) Proposed sidewalks and pedestrian paths -- location; width; surface type, including typical cross sections.
- (16) Proposed fences or screens -- location; height; type, typical details, including elevations and sections.
- (17) Proposed outdoor trash storage -- location, dimensions, and typical details of the enclosure. If no outdoor trash storage is intended, the plan should so state.
- (18) Proposed central mailboxes, if applicable.
- (19) Proposed signs -- location, dimensions, area, height, illumination, copy.
- (20) Proposed traffic control signs -- location, type.
- (21) Landscape plan -- areas of grass or other ground cover; location, type, and size of trees and shrubs.
- (22) Proposed retaining walls -- location; dimensions; materials of walls and fill; typical vertical sections.
- (23) Proposed outside lighting -- location; type; height; intensity; direction; typical details.
- (24) Proposed water systems -- location, size, and material type of line; location of fire hydrants and valves; profiles.
- (25) Proposed septic system -- location and size of septic tank and drainfield.
- (26) Proposed storm drainage system -- location, dimensions, and calculations of stormwater retention areas; location, size, calculations, and material type of sewers; location and centerline elevations of swales and ditches; inverts; location of manholes and catch basins; direction of flow; drainage patterns; profiles of sewers, retention areas, culverts, swales, and ditches.
- (27) Proposed electrical, telephone and gas services; location of new utility poles; location of underground lines and surface equipment; location and size of natural gas lines and appurtenances.
- (28) Soil erosion control plan.

- (29) Evidence of approval by the following, if required: Michigan Department of Natural Resources; Washtenaw County Road Commission; Washtenaw County Drain Commissioner; Washtenaw County Department of Environmental Services.

(g) Standards for Review. The Village Council shall determine if a site plan meets the following standards:

- (1) All required information has been provided.
- (2) All applicable regulations of the Zoning Ordinance have been met.
- (3) Vehicular and pedestrian traffic within the site and in relation to access streets will be safe and convenient, and not disruptive to Village residents.
- (4) The proposed development will be harmonious with and not harmful, injurious, or objectionable to existing and future uses in the area.
- (5) Natural features will be protected and preserved to the maximum feasible extent.
- (6) The proposed development will be adequately coordinated with improvements serving the site and with other developments in the general vicinity.
- (7) Organic, wet or other soils that are not suitable for development will be undisturbed or will be modified in an acceptable manner.
- (8) Phases of development are in logical sequence so that any phase will not depend upon a subsequent phase for access, public utility service, drainage or erosion control.
- (9) The plan meets the Village's standards for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services.
- (10) The proposed development will not cause soil erosion or sedimentation problems.
- (11) The drainage plan is adequate to handle anticipated storm water runoff and will not cause undue runoff onto neighboring property or overload water courses.
- (12) Outside lighting will not adversely affect adjacent or neighboring properties or traffic on adjacent streets.
- (13) Outdoor storage of garbage and refuse will be contained, screened from view, and located so as not to be a nuisance to the site or neighboring properties.
- (14) Grading or filling will not destroy the character of the site or the surrounding area and will not adversely affect the neighboring properties and drainage

patterns.

- (15) The plan meets with standards of other government agencies, where applicable, and that approval of these agencies has been obtained.
- (16) The plan provides for the proper extension of existing streets, where applicable.
- (h) Council Action. The Village Council shall approve or deny the site plan within 90 days of the filing date. The time limit may be extended by agreement between the applicant and the Council. The Council may require changes in the plan to gain approval and may attach reasonable conditions to its approval. If the final site plan is denied, the Council shall notify the applicant in writing of such action and reasons therefore within 10 days following the action.
- (i) Effect of Approval. Approval authorizes issuance of a zoning compliance certificate and issuance of a building permit provided all other requirements for the permit have been met.
- (j) Expiration of Approval. Approval shall expire and be of no effect 180 days following the date of approval of the site plan unless a building permit has been issued therefore, and 545 days following the date of approval unless construction has begun on the site and is diligently pursued to completion in conformance with the approved site plan.
- (k) Amendment of Approved Site Plan. A site plan may be amended by application in accordance with the original procedure.
- (l) Modification of Plan During Construction. All site improvements shall conform to the approved site plan. Any changes made by the applicant during construction shall be made at the applicant's risk without assurance that the Council will approve the changes. The applicant shall be responsible for notifying the Administrator of any such changes. The Council may require the applicant to correct the changes so as to conform to the approved site plan.
- (m) Phasing of Development. The applicant may divide a proposed development into two or more phases. In such case the initial site plan submitted shall include a plan for the entire property, and shall show phases of development.
- (n) Inspection.
  - (1) The Administrator shall inspect or cause to be inspected all improvements for conformance with the approved site plan. All sub-grade improvements shall be inspected for compliance with the approved site plan before covering. The applicant shall be responsible for requesting the necessary inspection.
  - (2) The Administrator shall notify the Village Council in writing when a development for which a site plan was approved has or has not passed inspection with respect to the approved site plan. The Administrator shall advise the Council of steps taken to achieve compliance and shall periodically notify the Council of progress toward compliance with the approved site plan.

(o) Performance Guarantees.

(1) Performance bonds, irrevocable bank letters of credit, cash deposits, or other acceptable forms of security shall be filed with the Village Clerk. The guarantee shall be provided after a site plan is approved but prior to issuance of a certificate of occupancy. The guarantee shall cover site improvements as shown on the approved site plan that will not be completed prior to issuance of the certificate of occupancy. Site improvements shall mean streets, drives, parking lots, sidewalks, grading, required landscaping, required screens, storm drainage, exterior lighting, utilities, and traffic control signs and pavement markings.

(2) The applicant shall provide a cost estimate of improvements to be covered by the guarantee. The amount shall be sufficient to cover all expenses of completing the site improvements, including administrative and contingency expenses. of the guarantee shall be approved by the Village Attorney.

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(3) If the applicant fails to provide any site improvement according to the approved site plan within the time period specified in the guarantee, the Village Council may have the improvements completed. The Council may defray the costs thereof from the deposited security or may require performance by the bonding company.

(4) The guarantee shall be promptly released upon inspection and approval of site improvements in compliance with the approved site plan.

(5) If a cash deposit or irrevocable bank letter of credit is used, rebate to the applicant shall be made in reasonable proportion of the work completed to the entire project. All required inspections of improvements for which the deposit is rebated shall have been completed before funds are rebated.

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(6) The Administrator may refuse to sign a certificate of occupancy until compliance with the approved site plan is achieved, or until adequate security is deposited as required herein.

(p) Fees. Fees for review of site plans and inspections as required in this section shall be established and may be amended by resolution of the Village Council.

(q) Violations. The approved site plan shall become part of the record of approval and subsequent action relating to the site shall be consistent with the approved site plan unless the Village Council approves changes as provided herein.

