

## **EXHIBIT “A”**

### **1101.01 TITLE**

The provisions of Chapter 11 of this Zoning Code shall be known as the “Zoning Ordinances of the Village of Sugar Bush Knolls, Ohio.”

### **1101.02 INTERPRETATION**

In their interpretation and application, the provisions of this Zoning Ordinance, as most recently amended, shall be held to be the minimum requirements for the promotion of public health, safety, morals and general welfare.

### **1101.03 PURPOSES**

For the purpose of promoting public health, safety, morals, comfort or general welfare; to conserve and protect property and property values; provide for public improvements, the locations, heights, bulk, number of stories and size of building and other structures, percentages of lot areas which may be occupied, setback building lines, sizes of yards, courts and other open spaces, the density of population, the use of buildings and other structures and the use of land for residence, recreation or other purposes in the incorporated territory of such Village and for said purposes the incorporated territory of Sugar Bush Knolls Village is hereby established in accordance with the Ohio Revised Code and subject to the regulations hereinafter provided, for all lots and lands therein contained.

## **1104—DEFINITIONS**

**1104.01**—Certain words in this ordinance are defined for the purpose hereof as follows:

WORDS used in the present tense include the future; the singular number includes the plural and the plural the singular; whenever the circumstances shall so require the context shall permit, the masculine gender shall include the feminine and the neuter and vice versa; the word “lot” includes the word “plot;” the word “structure” includes the word “building;” the word “shall” is mandatory and not directory.

“ROAD-LINE” is the dividing line between abutting private property and a public way (including streets, alleys, highways, roads and lanes) whether the rights of the public in said way be by fee simple title, easement title, dedication, prescription, reservation or otherwise. “Road-line” shall be synonymous with “Road right-of-way line.”

The “ESTABLISHED ROAD GRADE” is the elevation of the center-line of the traveled portion (pavement or otherwise) of a public way at a particular point as established by construction or usage.

The “NATURAL GRADE” is the undistributed and unaltered elevation and contour of the ground surface.

The “HEIGHT OF A BUILDING” is the vertical distance, measured at the center-line of the principal front of the building from the established road grade or from the natural grade, if higher than the established road grade, to the level of the highest point in the coping of flat roofs or the decline of a mansard roof or to the mean height of a hipped roof. Where no roof beams exist or there are structures wholly or partly above the roof, the height shall be measured to the level of the highest point of the building, exclusive of chimneys.

“LOT” as used herein is not to be confused with that word used on plats or maps. A “lot” is a parcel of land containing a minimum of 1.25 acres, occupied by, or legally capable of being occupied by, one building, and the accessory building or uses customarily incident to it, including such open spaces as are required by this ordinance and such open spaces as are herein permitted to be arranged and designed to be used in connection with such building.

“FRONT LOT LINE” or “front property line” or “property frontage” is the principal road line of a lot.

A “REAR AREA LOT” is a parcel of land occupied by or legally capable of being occupied by one dwelling and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Ordinance and such open spaces as are herein permitted to be arranged or designed to be used in connection with such dwelling, but differing from a lot in having a front lot line of less than the front lot line of the area in which located but not less than thirty (30) feet, which minimum width of thirty (30) feet shall be the front line of an access strip to a public way. The said access strip shall be of common ownership with said rear area lot provided, however, that the area of said access strip to the property line nearest parallel to the public way shall not be included in computing minimum area for the area in which located.

“REAR LOT LINE” is the property line of a lot opposite the front lot line. If the lot is triangular, there shall be no rear lot line unless the principal building on said lot faces an angle thereof, one side of said angle being the front lot line, in which event the property line opposite said angle shall be the “rear lot line.”

“REAR YARD” or “back yard” or “back area” is a space, unoccupied by building, between the rear lot line and the building line nearest thereto on said lot.

A “LINE OF BUILDING” or “building line” is either the main foundation wall or the line of any covered porch extending outside the main foundation wall, not including steps or walk, whichever is nearer the lot line in question.

A “FRONT YARD” or “front area” is a space, unoccupied by buildings, between the front lot line and the building line nearest thereto on said lot.

A “SIDE YARD” or “side area” is a space, unoccupied by buildings, between a side lot line and the building line nearest thereto on said lot. Any lot line, not a rear lot line or front lot line, shall be deemed a “side lot line.”

A “FAMILY” is

Any number of individuals related by blood, marriage or adoption living and cooking together on the premises as a single housekeeping unit, including live-in domestic employees, and foster care children;

A number of person but not exceeding two (2) living together as a single housekeeping unit though not related by blood, adoption or marriage shall be deemed to constitute a family.

A “BOARDER” is an individual not related to a family and permanently living with a family, paying rent for lodging, and eating with the family or not. Permanence of living shall be in accord with intent, not length of time. Tourists or guests are not boarders within this definition. Excluded are exchange students.

A “DWELLING” is a complete permanent building, other than an accessory building or a garage, designed, intended, constructed or reconstructed to be occupied by not more than one family.

A “GUEST HOUSE” is an accessory building intended for temporary occupancy but not for hire by persons associated with the family which live in a dwelling on a lot, said guest house being located on said lot. The guest house must conform to the village set-back restrictions of the district in which the lot is located except as specifically provided by this section. The minimum front set-back line of the guest house shall be fifteen (15) feet behind the rear of the house line or 105 feet from the center of the road, whichever is greater. Minimum side and rear set-back lines shall be 75 feet. The guest house must not be more than one in number of any lot and must, in addition to the provisions of this section, conform to the minimum distance from detached buildings and dwellings of district in which located.

A “NON-CONFORMING USE” is one that does not comply with the regulations established for the use district or zone in which it is situated.

An “ACCESSORY USE” or “accessory building” is a use or building customarily incident to and located on the same lot with another use or building.

A “STRUCTURAL CHANGE” means any change in the supporting members of a building such as bearing walls or partitions, columns, beams or girders, excepting such as may be required for the safety of the building.

A “SETBACK LINE” is the distance between the lot line in question and the nearest permissible building line.

## **1105—GENERAL**

**1105.01**—This ordinance shall not be interpreted as interfering with, abrogating or annulling any ordinances, regulations, or permits previously adopted or issued except where such ordinances, regulations or permits are in conflict with this ordinance or amendments hereto in which event this ordinance or amendments hereto shall prevail.

**1105.02**—Where this ordinance or amendments hereto impose greater restrictions or higher requirements than are imposed or required by easements, covenants, agreements, or otherwise, the provisions of this ordinance or amendments hereto shall prevail.

**1105.03**—Each section, subsection, paragraph, provision, requirements, restriction or regulation of this ordinance or amendments hereto is hereby declared to be independent and the holding of a part to be invalid shall not affect the validity of this ordinance or amendments hereto as a whole or any part thereof except the particular section, subsection, paragraph, provision, requirement, restriction or regulation so declared to be invalid.

**1105.04**—All plans and specifications for the construction, reconstruction, alteration, completion, restoration, extension, substitution, enlargement or remodeling of any buildings, structures, or uses must conform to the State of Ohio and Portage County sanitation and building statutes, codes and/or regulations if any are in effect, and all plans and specifications must have approval of the State and/or County agencies or officers charged with the execution, administration or application of such statutes, codes and/or regulations.

**1105.05**—Nothing in this ordinance or any amendments hereto shall be interpreted as intended to be in conflict with the exemptions made mandatory by Ohio Revised Code Chapter 713, as well as other general law pertaining to planning, zoning, or similar land use regulations, as the same now exists or hereafter may be amended, revised, repealed or established by general law or Village legislation.

**1105.06**—If there is no sewer accessible, all water closets shall be connected with septic tanks or proper means of disposal to conform to sewage treatment as approved by the Portage County Health Department to prevent seepage or escape of sewage into the adjacent lake or to any other lot or premises adjoining said lake or in the village. If sewers are accessible, the use of the existing septic tanks shall be discontinued and connections with sewers shall be made for all existing and future construction in said Village.

**1105.07**—No business, trade or manufacturing of any sort or nature, or excavating further than is necessary for the construction of improvements or the grading on said lot, shall be conducted upon the property. No noxious or offensive activity, business or otherwise, shall be carried

on upon said premises, nor anything done thereon which may be or become an annoyance or nuisance to the residents of the Village or any of the residents.

**1105.08**—No nuisance, advertising sign, billboard, or other advertising device, except for the sale or lease of the land upon which said sign is located, shall be permitted, erected, placed or suffered, to remain upon said premises, nor shall the premises be used in any way or for any purpose which may endanger or hinder, or unreasonably disturb the quiet of any holder of adjoining land. The owner will keep and maintain the premises in an appropriate condition consistent with the adjacent property in the neighborhood.

**1105.09**—Owner shall not divide, subdivide or convey any part less than the whole thereof, of any lot in the Village without the approval of the Planning Commission.

**1105.10**—The Sugar Bush Knolls Planning Commission shall be the Platting and Zoning Board for Sugar Bush Knolls Village. No dwelling house, automobile garage or other structure including fences and walls shall be erected or suffered to remain upon said premises unless detailed plans and specifications thereof show the nature, name, shape, height, material, color scheme and location of said dwelling house, automobile garage or other structure shall have been submitted to and approved in writing by the Sugar bush Knolls Planning Commission. The Sugar Bush Knolls Planning Commission shall have the right to refuse to approve any such plans or specification which are not compatible with the neighborhood or district, in its opinion; and in so passing upon such plans and specifications Sugar Bush Knolls Planning Commission shall have the right to take into consideration the suitability of the approved buildings, dwelling house, automobile garage or other structure; and of the material of which it is to be built; the proposed site upon which it is to be erected, and harmony thereof with the surroundings, and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring properties. A majority vote of the Planning Commission shall be necessary for a decision.

**1105.11**—No farm animals, fowls, livestock, or wild animals of any kind or nature except domesticated household pets, shall be kept harbored on the premises unless the written consent of the Sugar Bush Knolls Planning Commission be first obtained. Said consent may be revoked at any time at the option of the Sugar Bush Knolls Planning Commission, should they decide that keeping said animal results in a nuisance to the neighbors for noise, odor, or aesthetics; or that keeping said animal disturbs the health, safety, comfort and welfare of the community.

**1105.12**—No trailer, basement of an incomplete house, tent, shack, or garage or other outbuilding, shall at any time be erected or used as a residence temporarily or permanently; nor shall any structure of a temporary character be used as a temporary residence.

**1105.16—LOT MAINTENANCE REQUIREMENTS**

The owner, occupant or person having the charge or management of any lot or parcel of land situated within the Village limits, whether the same is improved or unimproved, vacant

or occupied, within five (5) days written notice to do so, served upon him by the Clerk of Council, shall cut or destroy or cause to be cut or destroyed any noxious, poisonous or harmful weeds or vines growing upon any such lot or parcel of land, and prevent the same from blooming, going to seed or exceeding a height of eighteen inches.

Each owner, tenant, occupant or person in control of any premises, private or public, shall at all times keep the premises clean of any paper, trash, garbage, waste, rubbish, refuse, junk or any material dangerous to the public health, deposited on such premises and shall take measures including, but not limited to, cleanup of the premises to prevent such litter from drifting or blowing to adjoining premises.

Each owner, tenant or occupant of premises shall mow weeds and/or shall remove or cause to be removed any paper, trash, garbage, waste, refuse, junk or any other materials on such premises within forty-eight hours after having been served written notice by the Village council to remove or cause to be removed such material from the premises.

In the event the owner, tenant, occupant or person having the care of any building or lot of land does not mow, and/or cause to be removed materials in accordance with the provisions of this section, the Village Clerk is authorized and may enforce the provisions of this section and mow and/or cause such materials to be removed from such location, as instructed by Village Council.

Whenever mowing is done by the Village and/or materials are removed by the Village in accordance with the provision of this section, notice by regular mail shall be given to the owner of such lot or parcel of land at his last known address to pay the costs of the removal of such materials and such owner shall be given five days (5) within which to pay the costs of the removal. The notice shall be accompanied by a statement of the amount of the costs incurred by the Village for the removal of such material and in the event the same is not paid within thirty (30) days after mailing of such notice, then such amount shall be certified to the County Auditor and collected in the same manner as other taxes and assessments are collected.

**1105.17—BOATS, CAMPERS, ETC.** The placement of temporary structures, and the open storage of boats, campers, recreational vehicles (RVs), or trailers of any kind (travel, camping, motor homes, etc.) in excess of six (6) months in a calendar year is prohibited; provided, however that this restriction shall not prohibit trailers and temporary structures used in connection with building of any owner's home. Additionally, at all times such structures, boats, etc. shall be placed in the side or rear yard, behind the front building line.

**1105.18—SWIMMING POOLS** Above ground swimming pools are prohibited except children's pools of a portable, seasonal type. Below ground swimming pools shall be permitted but they are to be properly maintained in a safe, neat, and orderly manner.

**1105.19—LANDSCAPING** Upon the completion of dwellings, owners will have the lot landscaped within six months after each owner has taken possession of newly constructed homes except homes occupied between May 1 and November 1, in which case the landscaping shall take place within sixty (60) days after occupancy.

**1105.20—DRIVEWAYS** Upon the completion of construction of a dwelling, the owner will have driveway of either asphalt, concrete, or hard pack gravel.

**1110.01—PERMITTED USES**

Land shall be used exclusively for single family residence purposes, and no structure shall be erected, altered, placed or permitted to remain on any lot other than one single-family not to exceed two and one half stories in height and a private garage made a part thereof or suitably attached to the dwelling for the exclusive use of the said dwelling with a minimum capacity of two (2) full-size passenger cars, and such accessory buildings as are incidental to a residential use.

Except as permitted herein, all dwellings constructed shall contain not more than one single family living unit. Separate living quarters within the principal dwelling may, however, be permitted when used as living quarters for a member of such single family, a live-in relative as defined in section 1104.01 and/or a domestic worker(s), and/or health aids or similar functionaries. Boarders and boarding houses are not permitted.

**1110.02—LEASES** The owner of a dwelling may lease such to another provided that such lease is made subject to all of the provisions of these restrictions.

**1115 LOT AND BUILDING REQUIREMENTS**

**1115.01—BUILDING SIZE** The main living floor area of any dwelling place or erected on any lot shall conform to the following minimum requirements:

| <u>Style</u>           | <u>Total Square Feet</u> | <u>Other</u>                                |
|------------------------|--------------------------|---|
| One Story              | 2,500 sq. feet           | 1 <sup>st</sup> floor ground level;         |
| One and one-half story | 2,600 sq. feet           | 1,800 sq. ft. minimum in main living level; |
| Two Story              | 2,800 sq. feet           | 1,800 sq. ft. on 1 <sup>st</sup> floor; and |
| Two and one-half story | 2,800 sq. feet           | 1,800 sq. ft. on 1 <sup>st</sup> floor      |

excluding in any area and all listed instances, basements, porches, breezeways, garages, unfinished area (lacking interior finish, heating and/or electric service areas) and/or any areas with a ceiling height less than seven (7) feet; all areas that have a ceiling height of seven (7) feet or more shall have at least fifty percent (50%) of the perimeter walls above ground.

### **1115.02—SETBACK PROVISIONS**

Front Yards. Minimum front yard setback line shall be seventy (70) feet from the edge of the road upon which the lot fronts.

Corner Lots. In the case of a lot located at the intersection of two public ways, the minimum side road setback line shall be forty (40) feet from the side yard road line, or sixty (60) feet from the center line of side road, whichever is the greater.

Side Yard. Minimum side yard setback line shall be fifteen (15) feet.

Rear Yard. Minimum rear yard setback line shall be forty (40) feet.

Minimum distances between nearest side and rear yard lot lines of detached buildings shall be fifteen (15) feet.

### **1115.03—FRONT YARD RESTRICTIONS**

The area between any dwelling and the street on which it fronts shall be used for no other purpose than as a lawn, including the planting of trees and ornamental shrubbery, and for such walks and driveway as may be necessary to service said dwelling; provided, however, that this restriction shall not be deemed to prohibit the erection in said front area of a light pole, an ornamental fence not over thirty (30) inches in height and a patio not over two hundred (200) square feet in area. No boundary fence shall be constructed or suffered to remain on said front area of nearer the street than the front of the dwelling erected thereon; and on the remainder of the premises no boundary fence higher than five (5) feet shall be constructed or suffered to remain. In the case of a corner lot with a side yard on the street side which butts against a lot the front yard of which faces such street, the foregoing front yard restrictions shall apply to the said side yard.

### **1115.04—PERMITTED AND PROHIBITED STYLES OF HOUSE**

Dwellings shall be one of the following design types: one story, one and one-half story, two story, two and one-half story. The following designs are expressly prohibited: bi-levels, domes, berms or other underground structures, and A-frames. Dwellings may be built with or without basements.

Each lot may be permitted one out building or accessory building if it meets the following criteria:

It must be built in size not to exceed 500 square feet, and shall not exceed 20% of the square footage of the house, whichever is smaller.

It shall use materials and be built in a style that conforms to the materials and style of the house on said lot.



It shall be placed on the rear yard or side yard and must be set behind the front building line of the house and it must be set where it is least obtrusive to the neighbors, as determined by the Sugar Bush Knolls Planning Commission.

It shall be landscaped.

## **1125 PLANNING COMMISSION**

**1125.01—PLANNING COMMISSION** There is hereby created and established a Planning Commission pursuant to Ohio Revised Code Chapter 713 of five (5) members, consisting of the Mayor, one (1) member of the legislative authority (council) to be elected for the remainder of his term as such member of the legislative authority, and three (3) citizens of the Village to be appointed by the Mayor for terms of six (6) years each, except the term of one (1) of the members of the first commission shall be for four (4) years and one (1) for two (2) years. All such members shall serve without compensation.

**1125.02—AUTHORITY** The Village Planning Commission hereby established shall have all the power and authority conferred, granted and given unto it by the Ohio Revised Code, and it is further empowered and authorized to do any and all acts granted and set forth under and by the resolutions and ordinances of the Village to be done by the Village Planning Commission.

**1125.03—ADOPTION OF RULES** The Village Planning Commission shall adopt such rules and requirements for plats in the laying out of allotments as is deemed necessary and advisable, subject to the approval of the Council. Such rules and requirements shall be placed on file in printed or typewritten form in the office of the Clerk of Village Council.

**1125.04—CHAIRMAN** The Mayor by virtue of his office shall be the Chairman of such Commission and the Commission shall provide for a Vice Chairman to act in the Mayor's absence on said Commission and a secretary to take minutes at all meetings of said Planning Commission.

**1125.05—CONFLICT** Whenever a conflict exists between State law and Village resolution or ordinance, State law shall prevail and whenever State law is amended, revised or repealed pertaining to Village Planning Commissions, the same shall be deemed automatically adopted by this Council.

**1125.06—AMENDMENTS, SUPPLEMENTS, REVISIONS** Amendments, supplements and revisions of this ordinance shall be through the Planning Commission, and on such recommendations as may be submitted to the council by the Sugar bush Knolls Planning Commission in accordance with and pursuant to law.

**1125.07—APPEALS** Any appeals by residents or property owners of Sugar Bush Knolls Village to rulings of the Sugar Bush Knolls Planning Commission shall be directed to Sugar Bush Knolls Village Council, and filed with the Village Clerk, upon which Council shall set

public hearing not sooner than thirty (30) days, nor later than sixty (60) days after receipt of said appeal.

**1125.10—NOTICE AND PLAN REVIEW APPROVAL** No person, firm, corporation or any other entity shall build, remodel exteriors such that it changes the footprint of the house, or do any kind of construction for any type of building or structure whether above ground, flush with ground or below ground, without first giving notice to and obtaining plan review approval from the Village Planning Commission, signed by the Chairman or Vice Chairman and the Secretary or Acting Secretary after approval of not less than a majority of the Planning Commission, after applicant submits seven (7) sets of complete plans, specifications, profiles and any other blueprints or documents for the same. It shall be unlawful to locate, erect, construct, or reconstruct, enlarge or structurally alter the exterior of any building or structure without obtaining written approval of the Sugar Bush Knolls Planning Commission.

**1125.11—FEE FOR NOTICE AND PLAN REVIEW: PERMIT FEES**

The fee for any notice and plan review for new house construction in the Village shall be THREE HUNDRED DOLLARS (\$300.00) for each set of plans reviewed, payable before issuance of plan approval, which fee shall be deposited and credited to the General Fund. Any village resident who seeks approval from the Planning Commission to alter existing structures or to add out buildings, pools, fences or decks shall be required to pay a twenty-five (\$25.00) zoning and building fee with all applications to be deposited and credited to the General Fund.

**CONSTRUCTION** If any construction for which Planning Commission approval has been given is not started within one (1) year from the date of such approval, then such plans must be resubmitted and approved by the Planning Commission, and a new Portage County, Ohio, Building Regulation Department permit as hereinafter required, if one has been issued, must be applied for and issued before construction may proceed with the additional payment of respective Planning Commission and Portage County, Ohio, Building Regulation Department fees to be paid as if for original Planning Commission approval and issuance of Portage County, Ohio, Building Regulation Department permits. Construction must be completed within one (1) year of commencement of said construction.

**INSPECTIONS AND PERMITS**

Inspections shall include setback for buildings and foundations, building, heating and electrical inspections by the Portage County, Ohio, Building Regulation Department. Said building permits shall be obtained and fees shall be paid to and collected by said Portage County, Ohio, Building Regulation Department as may be then in effect for such inspections, together with any additional fees for inspection and approval of setback distances.

All plumbing and sewage permits and inspections therefore shall be obtained through and performed by or through the auspices of the Portage county, Ohio, Building Regulation Department, according to law, and required fees for such shall be paid to and collected by the Portage County, Ohio, Sanitary Engineers Department.

COUNTY PERMITS After the applicant has secured his plan review approval from the Village Planning Commission, he shall contact the Portage County, Ohio, building Regulations Department and Sanitary Engineers Department so that the necessary permits can be issued and inspections can be made as required in this Ordinance.

PROVIDE VILLAGE ORDINANCES TO COUNTY The Clerk of Council is hereby authorized and directed to furnish the Portage County, Ohio, Building Regulations Department and Sanitary Engineers Department a copy of this Ordinance and a copy of the Village's zoning ordinance with all amendments thereto and amendments as may be made thereto after the effective date of this Ordinance.

IMPLEMENTATION The Mayor and Clerk of Council are hereby authorized and directed to enter into any appropriate agreements, contracts or any other documents necessary to effect and implement this Ordinance. (1974)

**1125.12—PLANS** In addition to any and all other building plans and specifications for construction required by the Planning Commission, the Planning Commission shall require seven (7) copies of building plans and specifications and seven (7) copies of a topographical contour map (Topographic Survey Improvement Plan) be furnished to the Planning Commission which shall include but not be limited to location of structures thereon, grade and contour thereof, above and below ground water drainage facilities with downspout locations and all utility lines with connections thereto above and below ground.

**1125.13—HOME OCCUPATIONS**

Occupations may be conducted in a dwelling unit if a resident receives a permit from the Planning Commission to do so. In order to obtain said permit, the applicant must pay a \$25.00 fee and prove to the Planning Commission that:

The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

There shall be no change in the outside appearance of the building or premises, or other visible signs of the conduct of such home occupation;

No home occupation shall be conducted in any accessory building;

No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall not be located in a required front yard; and

No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

**1126.01—VARIANCES AND EXCEPTIONS** The Planning Commission is hereby authorized and directed to permit exceptions to and variations from the Zoning Code and regulations pursuant to Ohio Revised Code Section 713.11 with all amendments thereto deemed automatically adopted by this Council, which exceptions and variations shall be permitted as follows:

Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of provisions of this Zoning Code, the Planning Commission shall have power in a specific case to interpret any such provision as long as the decision is in harmony with its general welfare of the Village, and substantial justice is done.

The Planning Commission may, in specific cases, after public notice and hearing and subject to section appropriate conditions and safeguards, determine and vary the application of the use district regulations established by the Zoning Code in harmony with their general purposes and intent as follows:

Permit the extension of a building or use into a more restricted district.

Permit the extension of a non-conforming use of building upon the lot occupied by such use or building at the time of the passage of the Zoning Ordinance.

Permit in a use district any use in general keeping with the uses authorized in such district.

Grant in undeveloped sections of the Village temporary and conditional permits for not more than two years for structures and uses that do not conform to the regulations prescribed in the Zoning Code for the use district in which they are to be located.

**1126.02—APPLICATION OF PROPERTY OWNER** Any property owner who wants a variance or exception to the provisions of the Sugar Bush Knolls Zoning Ordinances shall apply in writing for said variance or exception to the Planning Commission through the Village Clerk.

Said request shall include:

A fee of \$25.00 plus the costs of any notices required.

Form completed by applicant that specifies the variance being requested, the specific section(s) on which the variance is being requested, the details of the variance and the grounds on which it is claimed that the variance should be granted.

A plan, drawn to reasonable scale showing the entire property under consideration, the location and names of all abutting streets, the location and dimensions of all existing and proposed structures as well as the acreage and dimensions of the property under consideration.

A list showing the names and addresses of property owners within 200 feet of the property lines of property being considered. The names and addresses shall be those that appear on the County Auditor's current tax list or the county Treasurer's mailing list.

A certified copy of each and every tax map page used to obtain the list of names of the property owners being submitted by the applicant.

**1126.03—NOTICE OF PUBLIC HEARING** The planning Commission shall hold a public hearing on each application after at least one publication in a newspaper of general circulation in the City at least fifteen (15) days prior to the date of the hearing. Such notice shall indicate the place, time and subject of the hearing. Written notice of the hearing shall be mailed by the Clerk by certified mail at least fifteen (15) days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from any part of the property or 200 feet. The notice shall include an indication to such owners the request being made, the place and time of the hearing and the right to be present at the public hearing or to be represented by an attorney.

**1126.04—REVIEW** At the time of the public hearing the Planning Commission shall hear all written or oral testimony pertaining to the request being made in each and every case. Oral testimony offered at the hearing shall be heard under oath, with any false testimony being subject to penalty under perjury. The Planning Commission may recess such hearings from time to time, and if the time and place of the continued hearing is publicly announced at the time of adjournment, then no further notice shall be required.

**1126.05—DECISIONS**

The Planning Commission shall decide all appeals and rule on all requests for variance or interpretations within seventy-five (75) days after the date of the initial hearing, except that such time may be extended by mutual consent.

In the event that a meeting of the Planning Commission is commenced with only three (3) members of the Commission present, an applicant shall have the right to have the hearing of his application postponed until the first subsequent hearing at which four (4) or more members are present.

Every decision of the Planning Commission shall be by resolution or order, each of which shall contain a record of the findings of the Commission by case number, together with all documents pertaining thereto.

A copy of the Planning Commission's written resolution or order, signed by the Chairman of the Commission or his designee, shall be sent to the applicant not more than fifteen (15) days after the decision was made. Copies shall also be sent to the Village Clerk and Council. Such decisions shall be binding upon Village employees, officers, boards and commissions and shall be incorporated in any permit or certificate, subsequently issued to the application pursuant to such decision.

#### **1126.06—CRITERIA FOR DECISIONS OR VARIANCE AND EXCEPTION REQUESTS**

In carrying into effect its powers to grant variances, the Commission shall be guided by the following criteria:

In general, the power to authorize a variance from the terms of this Zoning Ordinance shall be sparingly exercised and granted only under peculiar and exceptional circumstances.

Any variance granted shall be the minimum needed to alleviate the difficulty or hardship involved.

A limitation upon the financial gain from the land in use shall not in and of itself constitute a hardship.

Any difficulty or hardship constituting the basis for a variance shall not be self-created.

Mere evidence that a variance was previously granted under similar circumstances shall not be considered sufficient grounds for granting a variance.

#### **1199—PENALTY**

**1199.01** In addition to any other remedies available to the Village under the laws of the State of Ohio, whoever violates any provision of this ordinance shall be fined not more than Fifty Dollars (\$50.00) after notice is duly given in writing to any alleged violator by the Mayor or his duly authorized representative. After such notice is given, each day's violation shall constitute a separate offense.

**1199.02** That if any section, clause, or phrase of the foregoing ordinance shall be found illegal or unconstitutional by any proper court of law or equity, any such finding shall in no way affect

any other section clause or phrase of this ordinance and the same shall remain in full force and effect.