

CHAPTER 24  
**BUILDING CODE**

**24.01 ADOPTION OF BUILDING CODE.**

The following list of codes is hereby adopted as part of the Building Code of the Village of Johnsburg, McHenry County, Illinois, for the control of buildings and structures as therein provided in each code. Each and all of the regulations, provisions, penalties, conditions and terms contained in each code described below are hereby referred to, adopted and made a part hereof as if fully set forth in this Ordinance:

- A. 2006 International Building Code;
- B. 2006 International Energy Conservation Code;
- C. 2006 International Fuel Gas Code;
- D. 2006 International Mechanical Code;
- E. 2006 International Property Maintenance Code;
- F. 2006 International Residential Code;
- G. 2006 Wildlife-Urban Interface Code;
- H. 2005 National Electric Code;
- I. 2004 State of Illinois Plumbing Code

**24.02-EXCEPTIONS.**

Each and all of the regulations, provisions, penalties, conditions and terms contained in each code described above are hereby referred to, adopted and made a part hereof as if fully set forth in this Ordinance, except as provided below:

- A. All words contained in the Building Code which refers to the municipality or other word of similar meaning shall mean the Village of Johnsburg.
- B. The words "municipality authority", "government authority", or words of similar meaning shall, for purposes of this Section, mean the Board of Trustees of the Village.
- C. The words "enforcing officer", "hearing officer", "building inspector", or other words of similar meaning shall refer to the person designated by the Board of Trustees of the Village to act in that capacity.
- D. Section R105.5 (IRC) Expiration of Permits.
  - 1. Building permits shall expire if work is not completed within the time designated after the issuance of the permit.
    - (a) New Homes: One Year
    - (b) Garages 90 days

(c) Remodeling and Additions: 3 to 6 months depending upon the size of the job (as determined by the Building Inspector)

(d) Fences, Sidewalks, Patios, Etc. 30 days

2. If, after the expiration of the building permit, the work for which the building permit was issued has not been completed, the permit holder must appear before the Building and Zoning Committee of the President and Board of Trustees of the Village of Johnsburg at its regularly scheduled meeting to request an extension of said permit. Permits may be extended for no more than ninety (90) days upon showing by said permit holder that said work was not completed in the prescribed time through no fault of his or her own. If the permit holder cannot show that the delay was through no fault of his or her own, the permit will be extended for no more than thirty (30) days.
3. Construction suspended or abandoned for more than 30 days by the permit holder will constitute a violation of the Building Code and each day the work is not commenced shall be considered a separate violation subject to fine.

E. Section R113.1 (IRC) Unlawful Acts. Section R113.1, entitled "Unlawful Acts" of the International Residential Code is amended to read as follows:

Section R-113.1 It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub lessee or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any one and two-family dwelling in the jurisdiction or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Code.

It is hereby declared that any violations of the Code constitute a public nuisance, and in addition to any other remedies provided by this Code for its enforcement, the Village may bring civil suit to enjoin the violation of any provisions of this Code.

If for any reason any one or more sections, sentence, clause or parts of this Code are held invalid, such judgment shall not affect, impair or invalidate the remaining provisions.

F. Section PM 106.4, Violations. Section PM106.4 of the International Property Maintenance Code, is amended to read as follows:

Any offense arising under this Section 24.02-F, for which a specific penalty is not stated may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class A violation in Chapter 1.07-E. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

G. Section R105.2 Work Exempt from Permit. Section R105.2-Building: Items 1, 2, and 5 of the 2000 International Residential Code is hereby repealed.

H. Section 890.420 Pipe Cleanouts. Section 890.420-4 Plumbing Code: A full size cleanout shall be located within 5 feet of the building foundation, outside, in direct line with the building drain and sewer.

**24.02-B MUNICIPAL PROPERTY DAMAGE DEPOSITS.**

1. Before commencing any new residential or commercial construction for which a building permit is required, the Building Inspector will review the plans submitted for said permit and require the person obtaining the permit to deposit with the Village a road bond issued by a surety licensed in the State of Illinois in a form approved by the Village which contains a provision for the recovery of attorney's fees in the event that the Village must bring an action to recover on the bond, in favor of the Village in the amount of \$10,000.00. The bond shall provide that the Village may recover against the principal and the surety jointly and severally. The road bond shall be used by the Village to reimburse it for any damage to the Village roads, streets or other public improvements damaged by the applicant, the applicant's contractors, sub-contractors, agents, employees or other parties utilized or retained in connection with the construction process on the relevant lot.
2. The bond shall be held by the Village Clerk until such time as construction on the relevant lot is completed, inspected and approved by the Village.
3. In the event the Village property sustains damage, and such damage is not repaired and restored in full to the condition prior to such damage occurring, the Village shall utilize the surety bond to recover any costs related to the repair of said damage and recover its attorneys' fees incurred in connection with such recovery of damages.
4. If the costs of repairs to the Village property exceeds the amount of the surety bond, such additional costs shall be charged to the owner of the property, and it shall become immediately due and payable upon the owner receiving written notice of the amount of which the cost of repairs exceeds the amount of the surety bond.

**24.02-C GRADING AND SEEDING DEPOSIT.**

1. Prior to final inspection for a Certificate of Use and Occupancy between November 1st and April 30th, the person obtaining the Certificate of Use and Occupancy shall make a cash deposit with the Village Clerk in a sum of 150% of that determined to be sufficient to cover the cost of said grading and seeding.
2. The recipient of the Certificate of Use and Occupancy shall have until the following June 1st to complete said grading and seeding.
3. If the grading and seeding has not been completed within the time period prescribed in Paragraph 2 above, said deposit shall be used by the Village to complete said work. Thereafter, the Building and Zoning Committee shall hold a hearing pursuant to notice

to the party whose deposit they hold. If the Building and Zoning Committee determines that said party did not have good cause for not completing the grading and seeding within the time period prescribed in Paragraph 2 above, the balance of the deposit shall be forfeited to the Village. If the work is completed within the time period prescribed in Paragraph 2 above, the total amount of the deposit shall be returned to the parties making the deposit.

#### **24.02-D GRADING AND EXCAVATING REGULATIONS.**

1. Protection of utilities. Public utilities or services shall be protected from damage caused by grading or excavation operations.
2. Protection of adjacent property. Adjacent properties shall be protected from damage caused by grading operations. No person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley, or other public or private property, without supporting and protecting such property from any damage that might result.
3. Inspection notice. The code official shall be notified at least 24 hours prior to the start of work.
4. Temporary Erosion Control. Precautionary measures necessary to protect adjacent watercourses and public or private property from damage by water erosion, flooding or deposition of mud or debris originating from the site shall be put in effect. Precautionary measures shall include provisions of properly designed sediment control facilities so that downstream properties are not affected by upstream erosion.
5. Traffic control and protection of streets. Flaggers, signs, barricades and other safety devices to ensure adequate safety when working in or near public streets shall be provided.
6. Tracking of dirt onto public streets. Adequate cleaning of equipment to prevent the tracking of dirt and debris onto public streets shall be provided.
7. Maintenance of waterway and irrigation canals. Precautionary measures to protect and maintain the flow of waterways and irrigation canals shall be taken.
8. Revegetation. The loss of trees, ground cover, and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, graded areas shall be protected to the extent practical from damage by erosion by planting grass or ground cover plants and/or trees. Such plantings shall provide for rapid, short term coverage of the slopes as well as long term permanent coverage. A plan by a registered design professional shall be provided where required by the code official.

9. Design Standards. The grading design standards required herein shall be those found in nationally recognized standards.

**24.02-E GARAGES.** Every dwelling unit shall be constructed with an attached or detached garage on the building lot upon which it is constructed. Said garage shall have dimensions of at least twelve (12) feet wide and twenty-one (21) feet deep, and shall be connected to the street by a driveway constructed as provided herein.

**24.02-F DRIVEWAYS**

1. With any residential or commercial construction, a driveway:
  - a. Shall be constructed with a CA6, 100% crushed base a minimum of six inches thick (increased to 8 inches for that portion of the driveway within right-of-way or driveway apron), surfaced with a minimum of 2 inches of asphalt (increased to 4 inches for that portion of the driveway within right-of-way or driveway apron) or four inches thick surfaced with 6 inches of concrete.
  - b. Shall extend from the garage to the street and, at the street, not exceed the height of the road surface.
  - c. Shall be at least 12 feet in width and, for residential and private driveways, the maximum width shall not exceed 24 feet at the right-of-way. Those driveways existing as of the effective date as adopted in this Ordinance January 7, 1997, whether they are on a commercial or residential parcel, are exempt from the requirements of this subsection 24.02-O-1-c.

With respect to any nonconforming property, the property owner shall construct a driveway in the manner set forth above upon the earlier to occur of: i) alterations or construction to 50 percent or more of the principal dwelling or structure on the property or ii) the resurfacing of 50 percent or more of the surface area of the existing driveway with any material, including, but not limited to, gravel, cinders or crushed limestone.

- d. Shall have a culvert installed under the driveway unless deemed unnecessary by the Village Engineer based upon sound engineering practices. The driveway and culvert shall be installed at the owner's expense. If the Village Engineer is requested to determine the necessity of a culvert by the relevant property owner or the Village, the property owner shall reimburse the Village for the fees of the Village Engineer.
- e. Driveways shall be limited to one per road frontage in Residential and Estate Zoning Districts.

2. Culvert Permit.

Prior to the installation of a driveway or field access, a permit for a culvert installation on the Village's right of way shall be required and obtained from the Village Building Department. Culvert permits shall expire 60 days after issuance. An inspection fee of \$100.00 shall be collected upon permit application (see Appendix A of this Chapter) to provide one Village inspection of the placed and back filled culvert. The Village Engineer or Public Works Department shall inspect culvert placement before driveway installation begins.

Existing driveway culverts requiring replacement may be replaced with "in kind" material per Village of Johnsburg's Driveway Culvert Detail. Minimum inner diameter of driveway culverts is 15". However, existing culverts larger than 15" must also be replaced "in kind" size and its diameter must be consistent with neighboring culverts to provide adequate drainage flow.

Roadway culverts requiring replacement may be replaced with "in kind" material. Minimum diameter roadway culvert is 18". However, existing road culverts larger than 18" must be replaced "in kind" size. In a situation where any natural waterway or a constructed channel is to be bridged, adequate concrete headwalls and wing walls shall be required subject to review and approval of Village and Village Engineer.

Roadway culverts installed as part of a new subdivision or any new development are required to be constructed of RCP with PCPFES end sections and grates and per IDOT standards. The size of the roadway culvert will be a minimum of 18" or as required per culvert calculations based on a 20 year storm event provided by a professional engineer or as otherwise directed by the Village Engineer.

New culverts (driveway) constructed within a new estate development shall be reinforced concrete pipe material (RCP) with RCP flared end sections consistent with the minimums indicated above or as modified by the design engineer for the new development.

During installation the culvert shall lie at a minimum grade of 0.50% in the bottom of the ditch. However, the pitch of the ditch shall control the culvert grade as long as it exceeds 0.50% and is 2' or more in depth.

Installed culverts shall be back filled with approved trench backfill and shall be compacted to 95% maximum dry density. Culverts that are damaged during installation shall be replaced by the property owner's expense.

Flared end sections are required for all culvert replacements and slopes adjacent to driveways shall not exceed 4:1. Ditches shall be grass/vegetated. The use of stone or rock in lieu of grass needs to be approved by the Public Works Committee and is discouraged due to maintenance and aesthetics.

3. Driveway Deposit.

- (a) Prior to final inspection for Certificate of Use and Occupancy between November 1st and April 30th, persons obtaining the Certificate of Use and Occupancy shall make a cash deposit with the Village Clerk in the sum of 150% of that determined to be sufficient to cover the cost of constructing a driveway.
- (b) The recipient of the Certificate of Use and Occupancy shall have until the following June 1st to complete said driveway construction.
- (c) If the construction of the driveway has not been completed within the time period prescribed in Paragraph (a), said deposit shall be used by the Village to complete said work. Thereafter, the Building and Zoning Committee shall hold a hearing pursuant to notice to the party whose deposit they hold. If the Building and Zoning Committee determines that said party did not have good cause for not completing the construction of the driveway within the time period prescribed in Paragraph (a), the balance of the deposit shall be forfeited to the Village. If the work is completed within the time period prescribed in Paragraph (a), the total amount of the deposit shall be returned to the parties making the deposit.

**24.02-G TRENCHES.** All trenches across proposed or existing streets and driveways shall:

1. Be back filled with No. 2 sand to a point of not less than five (5) feet from the outside edge of the proposed or existing pavement.
2. The sand shall be compacted thoroughly in place by jetting or in a manner and with the use of equipment acceptable to the Village Engineer, Superintendent of Public Works or the Building Commissioner.
3. This compacted sand shall be brought to within ten (10) inches of the proposed or existing final grade. At this point, eight (8) inches of State of Illinois specification Grade CA-6 gravel shall be placed to a width of twelve (12) inches greater than the trench.
4. When the gravel has been completed to the satisfaction of the Village Engineer, Superintendent of Public Works or Building Commissioner, a two (2) inch bituminous surface (B-5 or Class 1) shall be placed over the entire trench equal in width to the existing or proposed pavement.
5. All excess materials shall be removed and the right of way shall be restored to its original condition and to the satisfaction of the Village Engineer or Director of Public Works.

**24.03 BUILDING PERMIT APPLICATION.**

The Building Commissioner, where possible, shall submit his decision to the building permit applicant within sixty (60) business days of the building permit request on plans submitted for a

residential building and within ninety (90) business days of the building permit request on plans submitted for a commercial or industrial building.

No permit can be issued to applicant currently in violation of Village Building or Zoning Ordinance. Any applicant, permittee, his/her agent, representative or assign who is issued a building permit and is found by the Building Inspector to be in violation of the Village's Building Code shall be denied any further permit of any kind until the violation(s) is corrected to Code or to the satisfaction of the Building Inspector.

**24.03-B ARCHITECTURAL REVIEW** *(Amended by Ord 98-99-19)*

**PURPOSE.** The architectural review process is intended to protect, preserve and enhance the character and architectural heritage and quality of the Village, to protect, preserve and enhance property values and to promote the health, safety and welfare of the Village and its residents. The goals of the architectural review ordinance are as follows.

**SPECIAL CHARACTER.** To effect and accomplish the protection, enhancement perpetuation and the use of improvements and areas of special character or of special historical and/or aesthetic interest or value that represent or reflect elements of the Village's cultural, social, economic, political and architectural history.

**LOCAL ATMOSPHERE.** To maintain the local "small town" atmosphere of various residential and business areas within the Village.

**COMPATIBILITY.** To insure the compatibility of new development, both commercial and residential with the existing characteristics of the area.

**TRANSITIONAL AREAS.** To protect sensitive areas of transition from one land use to another.

**ATTRACTIVENESS.** To protect and enhance the Village's attractiveness to visitors and thereby support and stimulate local business.

**STRONG LOCAL ECONOMY.** To strengthen the economy of the Village.

**APPLICABILITY.** This ordinance shall be applicable to and accompany all applications for the approval of a subdivision or a building permit for the following:

- A. All new commercial structures.
- B. All new commercial subdivisions.
- C. All new residential subdivisions containing more than three (3) units.
- D. The remodeling or restoration of any commercial structure or residential buildings within certain designated "historic districts" of the Village.

**PROCEDURE.** See Village of Johnsburg development procedure packet.

## **STANDARDS AND CONSIDERATIONS FOR ARCHITECTURAL REVIEW**

**APPROVAL.** In their consideration of an application for architectural review approval the Village's reviewing agencies shall consider and evaluate the applicants proposed improvements against the following standards and considerations.

### **GENERAL QUALITY OF DESIGN AND SITE DEVELOPMENT.**

**Open Spaces.** The quality of the open spaces between buildings and in setbacks spaces between streets and the front face of the structure.

**Materials.** The quality of materials and their relationship to those in existing adjacent structures.

**General Design.** The quality of the design in general and its relationship to the overall character of the neighborhood.

**General Site Development.** The quality of the site development in terms of landscaping, recreation, pedestrian and vehicular access, parking, servicing of the property, impact on traffic patterns and conditions on site and in the vicinity of the site and the utilization of any existing natural amenities on the site.

**General Standard for Visual Compatibility.** All applications for architectural review of any new commercial structure or the renovation, remodeling or restoration of any existing commercial structure shall be accompanied by a written statement from a registered architect that he personally has visited the site of the proposed construction and that said construction is compatible with the surrounding area when viewed from the following perspectives:

1. Building height.
2. Proportion of front facade to neighboring structures.
3. Proportion of openings.
4. Rhythm of solids to voids on front facades.
5. Rhythm of spacing of buildings to adjacent streets, other buildings and open spaces.
6. Relationship of materials and textures with that of adjacent buildings.
7. Roof shapes.
8. Scale of buildings
9. Direction of front elevation.

**General Standard for all Applications for Site Plan Architectural Review.** All applications for site plan review and approval for residential or commercial subdivisions shall be accompanied by a copy of Covenants, Conditions and Restrictions documents, suitable for subsequent recording with the McHenry County Recorder of Deeds that sets forth the architectural guidelines for that development.

**Specific Areas of Sensitivity.** When reviewing any proposed site plan or architectural design the Village's reviewing bodies will do so with a critical eye toward the following areas:

1. The aesthetic effect of the subdivision's street layout when viewed against its topography, natural resources and adjacent property.
2. The development's primary entry, its design and any proposed amenities.
3. Signage as to its location, design, size and color.
4. Berming and landscaping of any publicly or commonly owned property.
5. The design of any commonly or publicly owned structures such as club houses, bridges, gazebos, gate houses, etc.
6. The preservation of natural resources such as streams, ponds, wetlands and trees.
7. The proposed improvement's relationship and compatibility with adjacent land uses and structures.
8. The provisions for buffering between different land uses.
9. The effect of any site lighting on adjoining property.
10. The provisions for screening of loading docks, trash disposal areas, outside storage and parking.
11. Large areas of visually unbroken asphalt or concrete.
12. The proposed color scheme for any commercial structure.
13. Overall landscaping.
14. The design of any storm water retention or detention facility.
15. The resulting streetscape at the structures or developments completion.

#### **24.04 PERMIT APPLICATION APPEALS.**

An appeal may be taken from any decision or determination of the Building Commissioner relating to plans which were submitted for a building permit by any person, firm or corporation aggrieved thereby or by any officer, department, board or commission of the Village of Johnsburg. The appeal must be filed within fourteen (14) days of the Commissioner's decision by filing a Notice of Appeal in duplicate, specifying the grounds forthwith; one copy will be forwarded to the President and Board of Trustees of the Village, and one copy to the Building Commissioner. The Building Commissioner shall immediately transmit to the President and Board of Trustees all papers related to the decision in question.

The President and Board of Trustees shall select a reasonable time and place for a hearing on the appeal, shall give due notice thereof to all interested parties, and shall render a written decision on the appeal without unreasonable delay. Any person may appear at the hearing and present testimony in person or by a duly authorized agent or attorney.

#### **24.05 FEE**

Any person, partnership, firm or corporation, upon filing plans for the issuance of a building permit with the Building Commissioner, shall, by the submission of a signed application, agree to bear the Village's cost of review of the application including, but not limited to, the fees charged by an architect, attorney, engineer or other professional consultation when those fees are incurred by the Building and Zoning Department regarding any plan submitted to it for review and comment. These costs may include flood plain analysis and/or soil suitability.

The applicant shall be provided a copy of this Ordinance with the building permit application and, upon request, the Village shall provide an estimate of these review costs. If the cost of review is estimated to be in excess of the building permit fee, the Building and Zoning Department may request an escrow deposit equal to 125% of the estimated cost of the review by professional consultant bills on a monthly basis. The Village may request that the escrow be replenished monthly if the estimate of cost and/or scope of work changes.

In addition to all fees related to the application for building permit, the applicant is responsible for all impact fees associated with the issuance of said building permit. For the purchase of calculating impact fees, a bedroom shall be defined as any room that may be utilized for sleeping purposes, including, but not limited to, bedrooms, offices, dens, and libraries.

#### **24.06 RIGHTS CONTINUED.**

Nothing in this Chapter or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquitted, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance is hereby repealed as cited in this Chapter; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Chapter.

#### **24.07 OCCUPANCY PERMITS.**

It shall be required as a condition to the issuance of a Certificate of Use and Occupancy that an unexecuted Certificate of Occupancy be filed with the Assessor of McHenry County and that the owner of such property obtain from the Assessor, in the form prescribed by such official, a receipt showing that the unexecuted Certificate of Use and Occupancy has been filed and that the property is subject to increased assessment, from the date of issuance of the Certificate on the proportionate basis for the year in which the improvement was completed.

The owner of the property shall file such receipt with the Village Clerk and a certified copy of the Certificate, when issued, shall be filed with the Assessor by the Village Clerk.

The Building Inspector may issue a temporary occupancy permit to complete the work required by the permit for up to 6 months on payment of an inspection fee of \$30.00.

**24.08 PIERS.**

- A. Definition: As used herein, the term "pier" shall mean any structure built over water and intended to support persons or objects from sinking and is perpendicular to the property line.
- B. No pier shall be erected, reconstructed, relocated or structurally altered unless a building permit is first applied for and obtained in accordance with the Village Building Code.
- C. Anchoring: All piers must be securely anchored to the shoreline. No pier shall be anchored such that its furthest point in the water is further than twenty (20) feet from the shoreline, unless permitted by the Corp. of Engineers.

**24.09 FEE SCHEDULE.**

- A. General: The payment of the fee for the construction, alteration, removal or demolition and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water taps, sewer connections, erection of signs and display structures, and marquees or other appurtenant structures, both within and without the jurisdiction of the Building Department.

The total permit fees shall be payable in full advance of the issuance of the permit or service to be performed.

- B. Building Permit Fees:
  - 1. Single family residential new construction, addition or accessory building: \$0.20 per square foot but not less than \$50.00.
  - 2. Commercial, industrial, storage, business, institutional, public and multi-family dwellings new construction, addition or accessory buildings: \$0.22 per square foot but not less than \$50.00.
  - 3. Alteration, remodeling or use change for all buildings and structures, \$.20 per square foot but not less than \$50.00. Re roof, siding and windows; \$50.00
  - 4. Electrical: \$0.10 per square foot but not less than \$40.00.
  - 5. Plumbing: \$0.10 per square foot but not less than \$40.00 plus \$2.00 per fixture.

6. Heating and air conditioning, new structure or addition: \$0.10 per square foot but not less than \$40.00.
  7. Moving, raising, shoring or underpinning of structure or foundation: \$80.00.
  8. Demolition: \$50.00.
  9. Sign: \$40.00 per sign face.
  10. Fence: \$50.00
  11. Swimming pool, hot tub, spa: \$80.00.
  12. Reinspection or extra inspection if required or requested: \$50.00 each.
  13. Reinspection of final inspection for new structures: \$100.00 each.
  14. Plumbing Inspections:
    - a. Single Family and Town Homes; \$250 per unit.
    - b. Multi Family \$250 Attached; \$200.00 for the first unit and \$150.00 per unit thereafter.
    - c. Industrial or commercial; \$250.00 per bath and kitchen.
  15. Mass Grading/Excavating, \$50.00 for the first 5 acres and \$10.00 per acre thereafter.
  16. Renewal or expired permit \$100.00
- C. Penalty. (Amended by Ord 03-04-28)
1. A penalty of 100 percent of the permit fee shall be added to the cost of the permit if construction is started before a permit is issued by the Village.
  2. Any person, partnership, firm, corporation or business entity having started construction before a permit is issued by the Village and having previously been assessed a penalty pursuant to 24.09 C-1, shall be assessed a penalty as follows:
    - a. Second Violation - 200% of the permit fee added to the cost of the permit.
    - b. Third Violation - 300% of the permit fee added to the cost of the permit.
    - c. Fourth and Subsequent Violations - 500% of the permit fee added to the cost of the permit.
  3. All such penalties may be reviewed by the Village Board upon request of the applicant for permit.

## **24.10 SWIMMING POOLS.**

A. Definitions. The following definitions shall be applicable to this section:

ASTM ES 13-89: Emergency standard performance specifications for safety covers and labeling requirements for all covers for swimming pools, spas and hot tubs.

Barrier: A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

Hot Tub: See definition for swimming pool.

Natural Barrier: A non-seasonal lake, pond or stream greater than 20 feet in width.

Neighboring Residence: A one or two family dwelling or a single family townhouse not more than three stories in height situated on improved property within 500 feet of a residential swimming pool.

Residential: That which is situated on the premises of a detached single or two-family dwelling or a one-family townhouse, not more than three stories in height.

Spa - portable, non portable, hot tub: A non-permanent structure intended for recreational bathing, in which all controls, water heating and water circulating equipment are an integral part of the product.

Swimming Pool: Any structure or device intended for swimming or recreational bathing, including permanent and temporary, that has a sidewall 24” or greater. This includes in-ground, above ground and on ground pools, hot tubs or spas.

Swimming Pool - indoor: A swimming pool which is totally contained within a structure and surrounded in all four sides by walls of said structure.

Swimming Pool - outdoor: Any swimming pool which is not an indoor pool.

B. Outdoor Swimming Pool Requirements. An outdoor swimming pool, including an in-ground, aboveground or onground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:

1. Barrier: The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be four inches measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at

ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four inches. The barrier must be placed parallel to and at a distance not exceeding 15 linear feet from any side of the pool. (*Amended by Ord. 94-95-38*)

2. Natural Barrier: The barrier requirements are waived for the portion of the pool/spa/hot tub facing the natural barrier. On all other sides of the property, the barrier must extend to the legal, where established, or normal water level.
3. Barrier Openings: Openings in the barrier shall not allow passage of a four inch diameter sphere.
4. Solid Barriers: Solid barriers which do not have openings, such as masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
5. Horizontal, Vertical Members: Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall not exceed 1 3/4 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 3/4 inches in width.
6. Where the barrier is composed of horizontal and vertical members of 45 inches or more, spacing between vertical members shall not exceed four inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 3/4 inches in width.
7. Maximum mesh size for chain link fences shall be 1 1/4 inch square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to no more than 1 3/4 inches.
8. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall be no more than 1 3/4 inches.
9. Access gates shall comply with the requirements of this subsection and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outwards away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate:
  - a. the release mechanism shall be located on the pool side of the gate at least three inches below the top of the gate; and

- b. the gate and barrier shall have no opening greater than one-half inch within 18 inches of the release mechanism.
  10. Aboveground Pool Structure Used as Barrier: Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure and the means of access is a ladder or steps, then:
    - a. the ladder or steps shall be capable of being secured, locked or removed to prevent access, or
    - b. the ladder or steps shall be surrounded by a barrier which meets the requirements of Section 24.10-B-1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow passage of a four inch diameter sphere.
  11. Where a moat is used to obtain the 48 inch clearance from ground surface to the top of the pool, it shall also be 48 inches from the outside rim of the moat to the top of the barrier (or rim of the pool).
- C. Barrier Locations: Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.
- D. Exemptions:
  1. A spa with a solid lockable safety cover which complies with ASTM ES 13-89 shall be exempt from the provisions of this Ordinance. Swimming pools with safety covers shall not be exempt.
  2. Swimming pools/spas/hot tubs located greater than 500 feet from neighboring residence and that have been in existence prior to the effective date of this amendment (January 17, 1995) shall be exempt from all requirements of Section 24.10-B, C.
- E. Variances: It is the intent of this Ordinance that all swimming pools, spas and hot tubs have an effective barrier to discourage access of children (less than five years of age). However, it is recognized that unique circumstances may exist that would preclude immediate compliance with all parts of Section 24.10 in existence prior to the effective date of this amendment. Variations from the regulations of this section may be granted in each of the following instances:
  1. For the swimming pools/spas, hot tubs built prior to the effective date of this amendment and that requires measurement specifications as set forth in Section 24.10, may be granted a variance provided that the "as built" configuration does not deviate by more than 15 percent of the measurement specifications.

2. A variance may be granted by the Building and Zoning Officer (or) Board of Trustees where evidence is presented and demonstrates:
  - a. The swimming pool/spa/hot tub has been built prior to the effective date of this amendment.
  - b. The swimming pool/spa/hot tub is located 200 feet to 500 feet from a neighboring residence or less than 50 feet from a natural barrier.
  - c. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

#### **24.11 VILLAGE PROPERTY.**

- A. No person, company, utility, firm, corporation or other entity shall dig up or disturb any Village property without first securing a permit at least 24 hours in advance of such work from the Building Inspector.
- B. In cases of emergency, where it is necessary to undertake utility repairs requiring the disturbance of Village property, and obtaining a permit as required in Section 24.11-A would not be in the best interest of the residents of the Village because of a loss of necessary utility services to the residents, the utility may undertake immediate repairs and disturb Village property without a permit provided:
  1. The Village Police Department is notified of such emergency; and
  2. A permit for such emergency repairs is applied for and obtained within 24 hours of initiating the emergency work.
- C. The applicant for such a permit shall deposit, with the Village Clerk, a sum determined by the Superintendent of Public Works, to cover the cost of restoring the Village property. The deposit shall be in cash and held by the Village Clerk until the Superintendent of Public Works or Building Inspector certifies that the Village property has been restored to its previous condition.

Entities regularly doing work within the Village may deposit a yearly cash bond, to be held by the Village, for all work anticipated to be performed during a given year. Upon application the Village Board will set the amount of the yearly cash bond.

- D. The permittee shall be required to restore Village property within three days after completing the work for which the permit was issued. Any grass that is disturbed shall be replaced with sod; any other disturbed area shall be replaced with grass seed unless directed otherwise by the Superintendent of Public Works. Provisions shall be made to water sod until it is established and grass seed until it has germinated. Upon restoration of the sur-

face to its former condition, the Village Clerk shall return the cash deposit to the permit holder.

- E. During the time the Village property is disturbed adequate provisions shall be made to control soil erosion and sedimentation.
- F. Any person, utility, firm or corporation who violates any of the provisions of Section 24.11 shall be fined not less than \$500.00 for each occurrence.

#### **24.12 STORMWATER CONTROL**

- A. The provisions of Article 7, Stormwater Control, of the Village of Johnsburg Subdivision Ordinance, shall be applicable to all property in the Village, including, but not limited to, new construction, any modification or improvement to land and any change in land use.
- B. Penalty: If any person, firm, entity or corporation violates the provisions, or the terms of any permits issued pursuant to this Section 24.12, the Village may exercise any or all of the remedies and penalties available under law including, but not limited to the following:
  - 1. Imposition of a fine of not less than \$100 or more than \$1,000 for the first offense. For the second and subsequent offenses, the fine shall be not less than \$500 or more than \$1,000. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.
  - 2. Said violation shall be considered a nuisance, in which case the Village may take summary steps to abate the nuisance and charge the violator with the cost of abating the nuisance. Upon nonpayment, the Village may file a lien against the property.
  - 3. If the violation occurs in connection with the development of property or the building of structures, the Village may revoke all permits and cause the cessation of any and all construction.
  - 4. The Village may obtain an injunction requiring the abatement of the violation.
  - 5. In addition to the fines herein, the Village shall be entitled to all costs of prosecution, including attorney fees incurred by the Village, and the cost, if any, of abating the violation.

#### **24.13 MULTI-UNIT STRUCTURES**

- 1. For the purpose of this section, multi-unit shall be defined as:
  - a. A building wherein a portion of which is rented by one or more tenants; or

- b. Which may consists of two or more individually owned units which share a common structure such as, but not limited to commercial condominium.
2. The provisions of Chapter 24.13 shall apply to all multi-unit structures in all Business, Commercial, Industrial and Residential zoning districts.
3. Partitions of masonry construction shall be required throughout all buildings being constructed or remodeled as multi-unit structures in Business, Commercial and Industrial zoning districts.
4. Partitions of masonry construction or USG H Studs pursuant to Architectural Technical Literature Folder SA-925 for detailed design and installation recommendations shall be required in all Residential zoning districts.
5. Automatic Sprinkler Systems shall be required in addition to masonry partitions where applicable.
6. Applicants must provide for said partitions or automatic sprinkler system designed to the minimum standards set forth in the International Residential Code and International Building Code, 2000 Editions.

**24.14 MASONRY, CONCRETE OR STEEL CONSTRUCTION REQUIRED IN MULTI-UNIT STRUCTURES**

1. Detached one and two family dwellings and multiple single family dwellings (town houses) are exempt from the provisions of this Chapter 24.14
2. Any use and/or occupancy classified under Section 308, Institutional Group I and Section 310.1 Residential Group R-4 of the 2000 International Building Code shall conform to Type I or Type II construction regardless of height. Any use and/or occupancy classified under Section 310.1 Residential Group R-1 or R-2 which has more than two stories above grade shall conform to Type I and Type II Construction as defined in the 2000 International Building Code.
3. Type I and Type II Construction are those types of construction in which the building elements listed in Table 601 of the 2000 International Building Code are of noncombustible materials.

