

VILLAGE OF CLARKSVILLE  
Clarksville Planning Commission

AGENDA

March 17, 2011

Call to Order

Roll Call: Planning Commission Members  
Lu Baxter  
Jordan Burnie, *ex officio* member, Village President  
Joyce Callihan, Secretary  
Robert Blocher, Vice Chair  
Kerry McMillen, Chairperson

Public Comment on Non-Agenda Items

Reading and Approval of Minutes 2/17/11

Adoption of Agenda

**Public Hearing – Zoning Map Amendment**

Unfinished Business

1. Distribution copies of:
  - 2011 Master Plan
  - 2010 Annual Report
  - 2011 Annual Work Program
2. Fence Ordinance Examples

New Business

1. Zoning Ordinance Amendment – Article 3 Administration & Enforcement
2. Sidewalk Ordinance
3. Applicant – Clarksville Gas, LLC / Liquor Control Commission
4. Site Plan needed for Farm Museum
5. Recycling Program
6. Downtown Mural
7. Street Lighting
- 8.

Reports

*Ex Officio* Member – Jordan Burnie  
Development Official – Frank Reser  
Chairperson – Kerry McMillen

Commissioner Comments

Adjourn

***Next regular Planning commission Meeting – April 21, 2010***

## **FENCE ORDINANCE EXAMPLES**

*For Consideration by the Clarksville Planning Commission  
March 17, 2011*

### **City of Greenville**

- A. Fences in Residential Districts shall not exceed six (6) feet in height in rear and side yards.
- B. Fences within front yards of all zoning districts shall not exceed three (3) feet in height if solid and shall not exceed four (4) feet in height if of an open type. Open type fencing shall include chain link fences, split rail fencing and other fencing types that are not more than forty percent (40%) solid.
- C. Fences in Residential Districts or enclosing residential uses shall not contain barbed wire or be electrified.
- D. Fences in the C-2, and IND Districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence not be nearer than six (6) feet from the surface of the ground. The total height of fences in the C-2, and IND Districts shall not exceed eight (8) feet, including the barbed portion.
- E. Fences shall not be erected within any public right-of-way in any district.
- F. Fences shall not be erected or maintained in a clear vision area, as described in Section 3.05.
- G. Fences shall not be erected within two (2) feet from a sidewalk, where the sidewalk is within the public right-of-way.
- H. Fences shall be erected with the finished side facing adjacent properties and streets. Support poles shall be placed so that they face the inside of the owner's lot.

### **City of Hastings**

#### **DIVISION 4. FENCES, WALLS AND SCREENS**

##### **Sec. 90-856. Applicability.**

This division shall apply to fences, walls or landscape screens in all zoning districts.

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##### **Sec. 90-857. Permit required.**

Before a fence or wall is erected, constructed or installed, a permit shall be obtained from the zoning administrator. An application for a fence permit must include a drawing showing the location type, height and materials of the fence or wall to be constructed and other information the zoning administrator requests to determine that the proposed fence or wall will comply with the provisions of this section. (Ord. No. 301, § 3(3.43(1)), 2-10-97)

**Sec. 90-858. Existing fences.** Any fence or wall presently in existence shall not be enlarged, altered or reconstructed until a permit is obtained in the manner provided for in section 90-857.

##### **Sec. 90-859. Location requirements.**

(a) *Front yard.*

(1) A fence, decorative or protective wall or landscape screen may be located within a front yard but shall not exceed a height of three feet, except in the B-1 (central business district). A fence, decorative or protective wall or landscape screen with a height not exceeding six feet may be located in any front yard in the B-1 (central business district).

(2) For a corner lot which has more than one front yard, a fence, decorative or protective wall which is no more than six feet high may be placed within the secondary street front yard provided such fence, decorative or protective wall is set back the minimum distance required for corner lots for that zoning district. The zoning administrator shall determine which is the secondary street. Such fences, decorative or protective walls shall be subject to the clear vision requirements.

(3) All fences, decorative or protective walls, or landscape screens must be set back a minimum of one foot from the front lot line or two feet from a sidewalk, except in the B-1 (central business district).

(b) *Side and rear yards.* A maximum height of six feet is permitted except in industrial zones, where the maximum height shall be ten feet.

(c) *Visibility.* A fence, decorative or protective wall or landscape screen shall comply with the requirements of section 90-802.

**Sec. 90-860. Materials and maintenance.**

(a) Any fence, decorative or protective wall, or landscape screen shall be of uniform design, construction and appearance, and sturdily constructed to withstand normal weather conditions. The method of construction and type of materials and design shall be of a kind normally and customarily associated with the uses permitted in the zoning district in which it is located. Woven wire or chain link fences with plastic, metal, or wood slats or inserts, shall not be permitted.

(b) In the B-1 (central business district) fences made of barbed wire, woven wire, chain link, any other non decorative metal or naturally degradable material, and wood are prohibited. Decorative or protective walls shall be constructed of brick or other decorative masonry, wrought iron, or other similar visually attractive low maintenance material.

(c) All fences, decorative or protective walls and landscape screens shall be constructed and maintained so as not to become a visual nuisance, or pose a safety hazard to nearby residents, passerby, or the general public. All fences, decorative or protective walls in the B1 (central business district) shall be architecturally compatible with the building on the property in which it is located, and surrounding buildings.

(Ord. No. 301, § 3(3.43(4)), 2-10-97; Ord. No. 398, § 2, 7-25-05)

**Sec. 90-861. Additional requirements and provisions.**

(a) All fences, and decorative or protective walls shall be erected so that the finished face of the fence, decorative or protective wall faces outside the property.

(b) Fences parallel to one another shall be prohibited unless special provision is made to specifically provide the proper maintenance of both fences, including but not limited to adequate distances between fences and construction design details.

(c) Gates in fences, or decorative or protective walls shall not open over public property, into alleys, or over adjoining properties.

(d) A fence shall not be constructed or maintained that is charged or connected with an electrical current.

(e) Barbed wire fences are prohibited in all zoning districts, except in the industrial district the use of barbed wire strands is permitted provided the strands are at least eight feet above the bottom of the fence.

(f) Essential services structures and buildings such as electrical substations may be protected by a fence up to ten feet in height with barbed wire strands located at least eight feet above the bottom of the fence.

(g) Fences higher than permitted by the zoning district may be permitted by the planning commission if it is demonstrated that such fences is necessary for public safety or proper screening, or is necessary for the proper operation of the principal use.

(h) All vertical support members for a fence shall not exceed the maximum permitted fence height by more than four inches.

(i) A fence, decorative or protective wall or landscape screen shall not be constructed within or over any public right-of-way.

(j) In the B-1 (central business district) when a fence, decorative or protective wall or landscape screen abuts or is immediately adjacent to a sidewalk, alley, street right-of-way, or building, that portion of the fence, decorative or protective wall or landscape screen, which is more than three feet above the sidewalk, shall be at least 75 percent open.

(Ord. No. 301, § 3(3.43(5)), 2-10-97; Ord. No. 398, § 3, 7-25-05)

## Lowell Township

### 4.31 FENCES & WALLS (7 Jul, 2010)

**Applicability** – The requirements of this Section shall apply to fences and walls in all zoning districts except that fences which are erected on a temporary basis such as for a construction site or fences which are erected as part of a mineral mining operation are not subject to this Section 4.31.

#### Definitions-

- (1) Fence – a man made structure serving as an enclosure, a visual screen a barrier or a boundary. For purposes of this Section 4.31 a freestanding wall having both sides exposed shall be considered a fence.
- (2) Substantially open fence- a fence which is at least 40 percent open when viewed perpendicular to the fence.

#### Yard & Height Requirements by Zone

- (1) AG-1, AG-2 and R-1 Zones
  - (i) *Front yard:* Maximum height of three feet for a solid fence; Maximum height of six feet for a substantially open fence such as chain link, wrought iron, picket, split rail or similar construction.
  - (ii) *Side and rear yards:* Maximum height of six feet.
  - (iii) The use of barbed wire strands and electrically charged fences above grade is permitted in all yards.
- (2) R2, R3, MH and OS-PUD Zones:

- (i) *Front yard:* Maximum height of three feet for a solid fence; Maximum height of four feet for a substantially open fence such as chain link, wrought iron, picket, split rail or similar construction.
  - (ii) *Side and rear yard:* Maximum height of six feet
- (3) Commercial Zone:
  - (i) *Front yard:* Maximum height of three feet for a solid fence; Maximum height of four feet for a substantially open fence such as chain link, wrought iron, picket, split rail or similar construction.
  - (ii) *Side and rear yard:* Maximum height of eight feet. The use of barbed wire strands is permitted provided the strands are restricted to the uppermost portion of the fence and shall not extend lower than a height of six feet from the average grade.
- (4) Industrial Zone:
  - (i) *Front yard:* Maximum height of three feet for a solid fence; Maximum height of six feet for a substantially open fence such as chain link, wrought iron, picket, split rail or similar construction.
  - (ii) *Side and rear yard:* Maximum height of eight feet.
  - (iii) The use of barbed wire strands is permitted in all yards provided the strands are restricted to the uppermost portion of the fence and shall not extend lower than a height of six feet from the average grade.
- (5) Corner lot: For corner lots the front yard requirements for fences shall apply to each front yard except that in the R-2 and R-3 zoning districts, a solid fence with a maximum height of six feet may be placed within that front yard which is along the side of the dwelling, provided such fence is a least 10 feet from that front lot line which is parallel to the side of the dwelling. (See Figure 4-4)
- (6) Measurement of Fence Height: The height of a fence shall be measured as the vertical distance from the highest point of the fence material, excluding any support posts or structures, to the finished grade of the ground immediately beneath the fence material.
- (7) Fence Height Exceptions:
  - (i) Fences which exceed the maximum height otherwise permitted by the zoning district may be allowed by the Planning Commission as part of the Commission's review of a site plan or special land use if it is demonstrated that such fence is necessary for public safety, proper screening, or is necessary for the proper operation of the principal use such as utility sub-stations, tennis courts, golf courses, athletic fields or parks.
  - (ii) The Planning Commission may also approve fence height exceptions which are not part of a site plan or special land use but which may be needed for farm protection purposes in the AG-1 and AG-2 Zoning Districts. In allowing a greater height the

Commission must take into consideration the compatibility of fence with the visual character of the area and the impact on nearby residents and land uses.

- (iii) In all zoning districts for those portions of fences which are extended across uneven, low or depressed areas relative to abutting grades including but not limited to swales, sloping ground, streams, drains or ditches, the fence material may extend to the bottom of the depressed area or the water in order to achieve the purpose of the fence. The fence shall be constructed and maintained so it does not to impede the flow of water.

The top of the fence material which extends over the low or depressed area however shall not be higher than the top of the fence material on abutting grades.  
(See Figure 4-6)

**AN ORDINANCE TO AMEND ARTICLE 3  
ADMINISTRATION AND ENFORCEMENT**

**VILLAGE OF CLARKSVILLE  
ORDINANCE NO. \_\_\_\_\_**

**DRAFT # 1  
March 17, 2011**

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE VILLAGE OF CLARKSVILLE  
BY AMENDING SECTIONS 3.1, 3.2, 3.3, 3.5, 3.6, 3.7, 3.8 and 4.3.**

**THE VILLAGE OF CLARKSVILLE ORDAINS:**

**SECTION 1** The Zoning Ordinance of the Village of Clarksville is hereby amended to **AMEND** the following Sections: 3.1, 3.2, 3.3, 3.5, 3.6, 3.7 & 3.8 to read as follows:

**New language in BOLD**

**Section 3.1 ADMINISTRATION**

The provisions of this Ordinance shall be administered by the **Zoning Administrator** in accordance with **Act 110 of the Michigan Public Acts of 2006, the Zoning Enabling Act.**

The Village Council shall employ or contract a Zoning Administrator to act as its officer to effect the proper and consistent administration and enforcement of this Ordinance. The terms and conditions of employment shall be established by the Village Council. The **Zoning Administrator** or his/her agent shall have the power of a police officer, whose jurisdiction is the enforcement of this Ordinance. Acting in this capacity, the **Zoning Administrator** shall, among other responsibilities, be empowered to issue appearance summons; seek the issuance of warrants for the arrest of alleged violators through the office of the County Prosecutor; bring criminal action in the name of the Village against violators of the provisions of this Ordinance.

**Section 3.2 RELIEF FROM PERSONAL RESPONSIBILITY**

The **Zoning Administrator**, while acting for the Village, shall not thereby render him **or her** self liable personally, and he/she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of ~~his~~ **their** official duties. Any suit instituted against any officer or employee because of an act performed by him/her in the lawful discharge of his/her duties and under the provisions of the Ordinance shall be defended by the legal representative of the County until the final termination of the proceedings. In no case shall the **Zoning Administrator** or any of his/her subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Ordinance; and any Officer acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of his/her official duties in connection herewith.

### Section 3.3 DUTIES OF THE ZONING ADMINISTRATOR

It shall be the responsibility of the **Zoning Administrator** to **administer and** enforce the provisions of this Ordinance and in so doing shall perform the following duties:

3.3.1 Issue Zoning Permits: The Zoning Administrator shall issue zoning permits in compliance with the provisions of this Ordinance

3.3.2 Inspections: The **Zoning Administrator** or their authorized agent shall make inspections of buildings or premises **as may be permitted by the property owner or occupant** in order to properly carry out the enforcement of this Ordinance

3.3.3 Record of Complaints: The Zoning Administrators shall keep a record of complaints of violations of any of the provisions of this Ordinance, and of the action taken consequent to each such complaint. Such records shall be public record.

3.3.4 Report to Village Council: The Zoning Administrator shall report to the Village Council periodically at intervals of not greater than one (1) year, summarizing for the period since the last previous report of all building permits **issued**, all complaints **received of zoning** violations, and all appeals, variances and exceptions granted by the Zoning Board of Appeals and **the** action taken.

### Section 3.4 DUTIES OF THE PLANNING COMMISSION {No change}

3.4.1 Adopt rules and guidelines for the proper administration and enforcement of the Ordinance.

3.4.2 Act as a policy board on matters of enforcement and administration of the Ordinance not covered by adopted rules or guidelines.

3.4.3 Conduct Public Hearings.

3.4.4 Make comprehensive review and recommend changes to the Zoning Ordinance every five (5) years.

3.4.5 Review all proposed requests for special use permits and/or amendments to the Zoning Ordinance for compliance with requirements of the Ordinance based on Articles 7 and 9 and thence recommend appropriate action to the Village Council for approval, disapproval or modification.

### Section 3.5 ZONING PERMITS

A zoning permit is required for the following:

3.5.1 **Excavation for or construction of a building including additions to or enlargements of existing buildings; a change in the use of a property; the moving of a building from one property to another; enlargement of an off street parking area; a use authorized by the Planning Commission as a Special Use or by site plan approval. A zoning permit shall also be required for a deck if it is over 30 inches above grade.**

**NOTE TO PLANNING COMMISSION:** Ionia County requires a building permit for accessory buildings which are 200 sq. ft. and larger. Decide if a zoning permit should be required for accessory buildings less than 200 sq. ft. Please note the word structure has been crossed out as this would include fences, play structures or other similar things which meet the definition of Structure which is: "Anything constructed or erected the use of which requires location on the ground, or attached to something having location on the ground."



3.5.2 Application for Zoning Permit: The following information shall be provided to the Zoning Administrator with each application for a zoning permit:

- A. All applications for a zoning permit shall be made **on a form supplied by the Village and shall at a minimum include the name and address of the applicant** and an accurate **drawing** showing the following:
1. The area, dimensions, and legal description of the parcel, location of easements and centerline of road.
  2. The dimensions and height of the existing and/or proposed building to be erected, altered or moved on the parcel.
  3. The existing or intended uses **of the building**.
  4. **The distance of the existing or proposed building to all lot lines.**
  5. **An accurate set of building plans illustrating the square footage of the dwelling unit.**
  6. **Signature of the applicant and property owner.**

**3.5.3 Building Permit. Any applicant for a building permit as may be required by Ionia first be issued a zoning permit by the Clarksville Zoning Administrator. Upon issuance of a zoning permit one copy shall be issued to the applicant and one copy retained by the Village.**

**3.5.4 Fee A fee for the issuance of a zoning permit as may be established by the Village Council shall accompany the application. Such fee shall be collected by the Village Clerk.**

## **Section 3.6 ADMINISTRATIVE PROVISIONS**

3.6.1 Suspension of Permit: A **zoning** permit issued shall become invalid if the authorized work is suspended or abandoned for a period of six ~~(6)~~ months after the time of commencing the work, unless in the case of building permits **Ionia County authorizes the extension of the permit.**

3.6.2 Previous Approvals: Nothing in the ordinance shall require changes in the plans, construction or designated use of a building for which a lawful building, electrical, or mechanical permit has been heretofore issued or otherwise lawfully authorized, and the construction and/or installation of which shall have been actively prosecuted within ninety (90) days after the effective date of this Ordinance; and the entire building or installation shall be completed as authorized within two (2) years after the date of approval of the application.

3.6.3 Revocation of Permits: The Zoning Administrator -may revoke a **zoning** permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

3.6.4 Inspection: The Zoning Administrator shall conduct an inspection of the property in order to **insure proper placement of the building and other matters pertaining to compliance with the Clarksville Zoning Ordinance.**

## SECTION 3.7 ENFORCEMENT, VIOLATIONS, & PENALTIES

### PENALTIES

Violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$2,500 for subsequent offenses, in the discretion of the District Court, and in addition to all of the costs, damages, and expenses, including reasonable attorneys' fees, incurred by the Village by reason of the violation, as provided by law; provided, however, that a person who has been issued a municipal civil infraction violation notice, as compared to a citation, may appear at the Municipal Ordinance Violations Bureau to admit responsibility for the violation and pay the amount listed in the schedule of civil fines posted by the Bureau, as specified in the notice.

The imposition or payment of any municipal civil infraction penalty shall not prevent the Village from seeking injunctive relief or other available relief against a violator as may be permitted by law, nor shall it prevent the Village from taking action against a violator for any subsequent offense. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of this Ordinance for which the person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that a violation continues shall constitute a separate offense.

Any use of land which is commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, raised, extended, enlarged, altered, maintained or changed, in violation of any provision of this ordinance is hereby declared to be a nuisance per se. Any person who disobeys, omits, neglects or refuses to comply with any provision of this ordinance or any permit, license or exception granted hereunder, or any lawful order of the Village Council, Zoning Board of Appeals, or Zoning Administrator issued in pursuance of this Ordinance shall be in violation of this Ordinance. Any such violation is hereby declared to be a nuisance per se.

The civil fines, costs, assessments, damages and/or expenses imposed against a person found responsible for violating this ordinance shall be paid to the Village immediately upon entry of the court order. If the civil fines, costs, assessments, damages and/or expenses are not paid to the Village within 30 days, the Village may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fines, costs, assessment, damages and/or expenses with the Ionia County Register of Deeds. The lien may be enforced and discharged by the Village in the manner prescribed by the General Property Tax Act.

<p><b>NOTE TO PLANNING COMMISSION:</b> The above wording may need to be revised to track with the recently adopted Civil Infractions Ordinance.</p>
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**SECTION 2** The Zoning Ordinance of the Village of Clarksville is hereby amended to **DELETE** the following definitions from Section 4.3:

**Building Official:** The officer or other designated authority charged with the administration and enforcement of the Village Building Code, or his or her duly authorized representative.

**Occupancy Certificate:** A written document received from the Development or Building Official stating that the Village/County Building Code, as amended and this ordinance have been complied with as they apply to the construction of a building or structure and the use of a lot and that the building may now be occupied for by its

previously designated purpose.

**Comprehensive Development Plan:** The statement of policy by the Planning Commission and Village Council relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The Plan consists of a series of maps, charts, and written material representing in summary from the soundest concept for community growth to occur in an orderly, attractive, economical, and efficient manner thereby creating the very best community living conditions. It is a blueprint for decision making for the future development and framework of the community.

**SECTION 3** The Zoning Ordinance of the Village of Clarksville is hereby amended to **AMEND** the following definitions in Section 4.3 to read as follows:

**Building Code:** The Michigan Building Code.

**Inoperable Motor Vehicle or Inoperable Vehicle:** Any vehicle or motor vehicle which is incapable of being propelled under its own power and cannot or legally or physically operated on public streets or highways by virtue of lacking the equipment required by the laws of the State of Michigan or which does not bear valid and current license plates.

**SECTION 4** The Zoning Ordinance of the Village of Clarksville is hereby amended to **ADD** the following definitions to Section 4.3 to read as follows:

**Master Plan:** The most recent Master Plan for the Village of Clarksville as adopted by the Clarksville Village Council.

**Zoning Administrator:** The person authorized by the Clarksville Village Council to administer the Clarksville Zoning Ordinance.

**SECTION 5** The Zoning Ordinance of the Village of Clarksville is hereby amended to change the term or words Development Official or Building Official to the term Zoning Administrator wherever this term or word shall appear in the Zoning Ordinance.

## **SECTION 6** EFFECTIVE DATE

This ordinance shall become effective upon its adoption and publication as provided by Village Charter.

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_ that the above ordinance be adopted as read.

YEAS: \_\_\_\_\_.

NAYS: \_\_\_\_\_.

We hereby certify that the Village of Clarksville Council adopted the foregoing at a public session held on \_\_\_\_\_, 2011. VILLAGE OF CLARKSVILLE

\_\_\_\_\_  
Jordan Burnie, Village President  
CERTIFICATION

\_\_\_\_\_  
Shari Clark, Village Clerk

I, the undersigned Clerk of the Village of Clarksville, certify that the above Ordinance is a true and complete copy of an Ordinance adopted at a regular meeting of the Village of Clarksville Council held on \_\_\_\_\_, 2011, pursuant to notice, and notice of its adoption, including being published in its entirety in the Lakewood News, on \_\_\_\_\_, 2011. I further certify that the above Ordinance was entered into the Ordinance Book of the Village on \_\_\_\_\_, 2011 and was effective immediately.

Dated:

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Shari Clark, Village Clerk

# VILLAGE OF CLARKSVILLE

ORDINANCE NO. \_\_\_\_

## SIDEWALKS

An ordinance establishing rules and regulations related to sidewalks within the Village.

### THE VILLAGE OF CLARKSVILLE ORDAINS:

Section 1. DEFINITIONS. For the purpose of this Ordinance, certain terms are herein defined.

1. Public Street: the entire width between the boundary lines of every public right-of-way open to vehicular traffic.
2. Sidewalk: that portion of a public street between the curb lines and the adjacent property lines intended for the use of pedestrians.
3. Constructed Sidewalk: a concrete or asphalt sidewalk, possibly including gravel sections.
4. Business Hours: hours between 8:00 a.m. and 6:00 p.m. on any day not a Sunday or holiday; hours between 12:00 noon and 5:00 p.m. on a Sunday or holiday.
5. Business District: Shall include that area within the following zoning classifications  
\_\_\_\_\_
6. Residential District: Shall include that area within the following zoning classifications  
\_\_\_\_\_

### Section 2. CONSTRUCTION AND MAINTENANCE

It shall be the duty of all owners and occupants of any lot or parcel of land fronting or being upon or along any public street in the Village of Clarksville under the supervision of the Street Commissioner of the Village to build, keep in repair and rebuild sidewalks in the said public street adjacent to and abutting upon each lot or parcel of land at such time, in such manner, and of such material as the Village Council may direct.

### Section 3. ORDER TO CONSTRUCT

Whenever the Village Council shall deem it expedient or necessary that a sidewalk should be constructed in and along the line and side of any public street in the Village or, the same having been constructed, shall deem that the same be repaired or rebuilt, the Village Council shall so declare by resolution. The resolution shall state the place where each sidewalk is required to be built, repaired or rebuilt, and the kind of material with which the same is to be done, the width of the same, and the time in which the same is to be completed and that the Village of Clarksville will pay from the appropriate Village fund for the cost of materials necessary for the same not to exceed fifty (50%) per cent of the total cost including labor and all other expense incidental thereto to build, repair or rebuild such sidewalk as shall be determined by the Street Commissioner, and thereupon it shall be the duty of all owners or occupants of all land affected

thereby to proceed within the time mentioned therein to do the work and make the improvements required thereby and in the manner and of the kind of material therein mentioned.

#### Section 4. NOTICE TO OWNER

After the passage by the Village Council of any such resolution mentioned in the preceding section, it shall be the duty of the Village Clerk to prepare copies thereof and to attach thereto a notice directed to each of the owners or occupants of all the land upon which such improvements would be a charge informing them that unless the improvement specified in such resolution shall be made and completed by them within the time, in the manner and of the material therein mentioned then and in that case the said Village will make and complete such improvements of which one-half (1/2) of the cost and expense thereof shall be assessed to the owner or occupant of the land affected thereby and will become a lien on such land as hereinafter provided. Copies of said resolutions and notices shall be served by the Village Clerk delivering the same to each owner personally if found within the Village or by certified mail by the Village Clerk. If the owner is not found in said Village or said mail is not delivered, then the same shall be served by posting the same in some conspicuous place on such premises and the Village Clerk shall make due return of said service and the time and manner thereof which returns shall be filed in the office of the Village Clerk.

#### Section 5. CONSTRUCTION BY VILLAGE

If the owner or occupant of any lot or parcel of land adjoining or along any public street where any such improvement shall or may be ordered shall neglect or refuse to make or complete the same in accordance with, or within the' time required, by any such resolution (such resolution and notice having been properly served) then it shall be the duty of the Street Commissioner to proceed forthwith to make and to complete such improvements and the Street Commissioner shall immediately after the same shall be completed by him or her, render to the Village a complete, full and certified statement of all of the costs of such improvements and also the length of time expended by him in superintending the same together with a particular description of all of the lots or parcels of land fronting upon or adjoining to which such improvements shall have been made by him and also the name or names of all of the owners or occupants of all such lots or parcels of lands as far as can be ascertained by him which certificate and statement shall be filed in the office of the Village Clerk.

#### Section 6. ASSESSMENT TO OWNER

When any such certificates or statement shall be filed in the office of the Village Clerk the owner's share of the cost shall be assessed to the property owner on the next tax notice.

#### Section 7. CONSTRUCTION BY OWNER

If the owner or occupant of any lot or parcel of land or owners or occupants of any lots or parcels of land adjoining or along any public street within the Village shall desire to construct, repair or rebuild a sidewalk and have the benefits of this Chapter, as herein provided, such owner or occupant shall first signify his or her intention to the Village Council of this Village in writing, at one of its regular sessions thereof, stating therein the lot or parcel of land and the street along which he proposes to build such walk, the length and width of said walk and the kind of material with which the same is to be done and if the Village council shall deem it expedient or necessary to construct, repair or rebuild such sidewalk, then the Village Council

shall so declare by appropriate resolution in like manner as set forth in section 3 of this Ordinance

#### Section 8. REMOVAL OF SNOW AND ICE

The occupant of any premises, or the owner of any unoccupied premises or real property, is required to keep the constructed sidewalks in front of, or adjacent to such premises cleared from snow and ice which will impede passage on such sidewalks.

- (1) Except as provided in subsection (3) hereof, snow and ice shall be so removed from sidewalks in all business districts by four (4) business hours after the cessation of any fall of snow, sleet, or freezing rain, or by the beginning of business hours of the next day following such fall, whichever period is shorter.
- (2) Except as provided in subsections (3) or (4) hereof, snow and ice shall be so removed from all residential sidewalks within twenty-four (24) hours after the cessation of any fall of snow, sleet, or freezing rain.
- (3) In the event snow and ice on a sidewalk has become so hard that it cannot be removed without the likelihood of damage to the sidewalk, the person responsible for its removal shall, within the time requirements of subsections (1) or (2), have enough sand or other abrasive put on the sidewalk to make travel thereon reasonably safe. Snow and ice shall then be removed as soon as it can be accomplished without the likelihood of damage to the sidewalk.
- (4) Exemptions. In residential districts only, persons who, for reasons of infirmity, believe compliance with subsections (2) and (3) would cause undue hardship, may file a request for exemption with the Village Clerk. The Clerk shall approve or disapprove the request according to guidelines adopted by Council. If approved the Village may then remove snow and ice from these sidewalks at a cost to be established by council resolution, based on length, in feet, of sidewalk.
- (5) Failure to Comply. If the person responsible for the removal of snow and ice fails to comply with the requirements of this Section, then the Village may remove the snow and ice, and the cost thereof may be collected as a single lot assessment. Further, such responsible party shall be liable to the Village for all losses to the Village or recoveries from the Village for damages to person or property of others caused by the failure of such responsible party to so remove all snow and ice accumulations in accordance with this Section.

#### Section 9. REPEALER PROVISION

Village Ordinance #12 and Village Ordinance #27 are hereby repealed.

#### Section 10. SEVERABILITY

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

#### Section 11. ENACTMENT AND EFFECTIVE DATE.

(A) This Ordinance was adopted by the Clarksville Village Council at a meeting duly held on the \_\_\_\_ day of \_\_\_\_\_, 2011 and was published in the \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2011.

(B) This Ordinance shall take effect twenty (20) days after the date of adoption specified above.

\_\_\_\_\_  
Jordan Burnie, President

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Shari Clark, Clerk