

SECTION 16 CONDITIONAL USES

16.1 PURPOSE:

The principle objective of this Zoning Code is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required for the social and economic welfare of the Village. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various districts established by this Zoning Code. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which may be necessary to allow because of their unusual characteristics or the service they provide the public. These conditional uses require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community. The conditions controlling the location and operation of such conditional uses are established by the following provisions of this Section.

16.2 AUTHORITY:

The Board of Trustees shall have authority to permit conditional uses of land, structures or both as defined in Section 16, Table 1 of the Johnsburg Zoning Ordinance, subject to conditions contained herein, if it finds that the proposed location and establishment of any such use will be desirable or necessary to the public convenience or welfare and will be harmonious and compatible with other uses adjacent to and in the vicinity of the selected site or sites.

16.3 CONDITIONS OF APPROVAL:

The ZBA may recommend, and the Village Board may impose, such restrictions upon the height, bulk and area of occupancy of any structure so approved for conditional use as may be reasonable under the particular circumstances. Off-street parking facilities as well as off-street loading and unloading spaces may also be stipulated in the ordinance permitting the conditional use.

16.4 PROCEDURE:

The procedure to be followed in considering applications for a conditional use shall be as follows:

- 16.4-1 Application: An application, verified by the owner or authorized agent of the owner of the property involved, shall be filed with the Village Clerk for the attention of the ZBA, upon a form prescribed therefore, which shall contain or be accompanied by all required information.
- 16.4-2 Public Hearing: Upon receipt of such verified application, the Village Clerk shall notify the ZBA Chairman, or in his absence, the Vice Chairman. The Petitioner shall give notice of a public hearing in the same manner as provided for hearings on the reclassification of property, as contained in Section 15.3. A record of pertinent information presented at the public hearing shall be made and maintained by the ZBA as a part of the permanent record relative to the application.

- 16.4-3 Determination: The ZBA shall make its findings and recommendations to the Village Board within 30 days following the date of public hearing on each application. The Village Board may then authorize a conditional use as defined in Section 16, Table 1, of the Johnsbury Zoning Ordinance, provided the evidence presented establishes the following:
- A. That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community;
 - B. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity; and
 - C. That the proposed use will comply with the regulations and conditions specified in this Zoning Code for such use, and with the stipulations and conditions made a part of the authorization granted by the Village Board.

16.5 ADULT ENTERTAINMENT ORDINANCE

- 16.5-1 Purpose: The purpose of this Section is as follows: In the development and execution of this Ordinance, it is recognized that there are some uses which because of their very nature are recognized as having serious objectionable characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this Section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area (i.e. not more than two such uses within 1,000 feet of each other) which would create such adverse effects.

- 16.5-2 Definitions: As used in this Section, the following words and phrases will have the following meanings:

ADULT BUSINESS: Any establishment having as a substantial or significant portion of its stock-in-trade or business activity in a use such as, but not limited to, the following: adults-only bookstores, adults-only motion picture theaters, and adult entertainment centers, rap parlors, adults-only nightclubs or adults-only saunas, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

ADULT ENTERTAINMENT BUSINESS: Synonymous with “adult business”, as defined herein.

ADULT ENTERTAINMENT CENTER: An enclosed building or part of an enclosed building, which contains one or more coin-operated mechanisms which when activated permit a customer to view a live person nude or in such attire, costume or clothing as to expose to view the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; or, female breast, at or below that areola thereof. In addition, the viewing of a live person, in the above described manner, after paying of any admission or fee for the viewing of the same activity.

ADULTS-ONLY: Any items or activities emphasizing, depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity.

ADULTS-ONLY BOOKSTORE: An adults-only establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity. An establishment, having adults-only items as a substantial or significant portion of its stock, that sells or displays adult-only items for sale to patrons therein.

ADULTS-ONLY MOTION PICTURE THEATER: An enclosed building used regularly and routinely for presenting adults-only material distinguished or characterized by and emphasis on matter depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity, for observation by patrons therein.

Applicant: Person applying for a permit under this Ordinance and must include all partners, including limited partners, of a partnership applicant, any officer or director of a corporate applicant, and any stockholder holding more than two percent of the stock of the corporate applicant.

BOOTH: Any enclosure that is specifically offered to patrons of an adult business for the private viewing of any adults-only item or movie. Said definition does not include enclosures that are used as private offices by any operator, employee or agent for attending to the tasks of their employment and are not offered for use by the public.

CUBICLE: Synonymous with “booth”, as defines herein.

Massage: Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of

the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.

Massage Establishment: Any establishment having a fixed place of business where any person, firm, association or corporation engaged in, carries on or permits to be engaged in or carried on, any of the activities heretofore defined as “massage”.

NIGHTCLUB, ADULTS-ONLY: An establishment or place either occasionally or primarily in the business of featuring topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

NUDITY: The display of the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; female breasts, at or below the areola thereof, with or without covering or with a less than fully opaque covering; or male genitalia, in a discernible turgid state, with or without covering.

OBSCENE: Any material or performance is obscene if: a) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and b) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and c) taken as a whole, it lacks serious literary, artistic, political or scientific value.

Permittee: The operator of an adult book store or massage establishment that has a valid permit issued under this Section.

RAP PARLOR: An establishment or place primarily in the business of providing nonprofessional conversation or similar services to adults, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated. Regulated Use: Any adult business, adult book store, cabaret or tavern, establishment for the sale of beer or intoxicating liquor for consumption on the premises, hotel or motel, massage establishment, pawn shop, pool or billiard hall, public lodging house or second hand store, or any combination thereof.

SAUNA, ADULTS-ONLY: An establishment or place primarily in the business of providing a steam bath and/or massage services, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Specified Anatomical Areas:

1. Less than completely or opaquely covered human genitals, public region, buttock and female breast below a point immediately above the top of the areola; and
2. Human male genitals in discernable turgid state, even if completely and opaquely covered.

Specified Sexual Activities:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; and
3. fondling or other erotic touching of human genitals, public region, buttock or female breast.

- 16.5-3 Concentration Prohibited: No regulated use as defined in this Section may be established or carried on, operated or maintained within 1,000 feet of more than one other regulated use. No regulated use may be established or carried on, operated or maintained in any area other than one zoned I-1 or I-2. Said regulated use shall require a Conditional Use per the procedures in Section 16.4 herein.
- 16.5-4 Restrictions on Location of Regulated Use: No regulated use shall be located within 2,000 feet of any church, school, hospital, undertaking establishments or mortuary, home for aged or indigent persons or for veterans, their spouses or children, or any military or naval station. Distance shall be measured from the nearest part of the building on the licensed premises to the nearest part of the building housing any church, school, hospital, undertaking establishment or mortuary, home for aged or indigent persons or for veterans, their spouses or children, or any military or naval station.
- 16.5-5 Waiver: The Zoning Commission may recommend and the Village Board may waive the requirements of this Section if the following conditions are met:
- A. The proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this Ordinance will be observed.
 - B. The proposed use will not enlarge or encourage the development of a skid row area.
 - C. The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal.
 - D. All other applicable regulations of this Zoning Ordinance will be observed.

Permit and License: No adult book store or massage establishment may be established or carried on, operated or maintained as a regulated use without application for and receipt of a permit and license. Every applicant for a permit to maintain, operate, or conduct an adult book store or massage establishment shall file an application in duplicate, under oath, with the Village Clerk upon a form provided by said Clerk and pay a non-refundable filing fee of \$50.00 to the Clerk, who shall issue a receipt which shall be attached to the application filed with said Clerk.

The Village Clerk shall, within five days, refer copies of such application to the Fire Department, the Board of Health, the Building Inspection Division and the Police Department. Those departments shall, within thirty days, inspect the premises proposed to be operated as an adult book store or massage establishment and make written recommendations to the license inspector concerning compliance with the codes that they administer.

Within ten days of the receipt of the recommendations of the aforesaid departments, the Clerk shall notify the applicant that his application shall be reviewed by the President and Board of Trustees of the Village within the next sixty days unless otherwise extended and agreed to by the applicant. Within that time limit the President and Board of Trustees shall advise the applicant in writing whether the application is granted or denied.

Whenever an application is denied or held for further investigation, the Clerk shall advise the applicant in writing of the reasons for such action.

The failure or refusal of the applicant to give promptly any information relevant to the investigation of the application or his or her refusal to submit or to cooperate with any inspection required by this Section shall be grounds for denial thereof by the Village President.

The application for a permit to operate an adult book store or a massage establishment shall set forth the exact nature of the business to be conducted or massage to be administered and the proposed place of business and facilities therefore.

In addition to the foregoing, any applicant for a permit, including any partner or limited partner of a partnership applicant, and any officer or director of a corporate applicant and any stockholder holding more than two percent of the stock of a corporate applicant, shall furnish the following information:

- A. Name and address
- B. Proof that the individual is at least 18 years of age.
- C. All residential addresses for the past three years.
- D. Applicant's height, weight, color of eyes and hair.
- E. The business occupation, or employment of the applicant for the three years immediately preceding the date of application.

- F. The massage, adult book store or similar business license history of the applicant; whether such person is previously operating in this or another city or state under the license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
- G. All criminal or municipal ordinance violations convictions, forfeiture of bond and pleading of nolo contendere on all charges except minor traffic violations, within the last five years.
- H. The finger prints and two front face portrait photographs of the applicant taken within thirty days of the date of the application and at least two inches by two inches in size.
- I. If the applicant is a corporation, or a partner in a partnership is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation.

If the applicant is approved by the President and Board of Trustees, the applicant shall be granted a license to establish, carry on, operate or maintain an adult book store or massage parlor. Each such license shall be in effect for one calendar year. The cost of each such yearly license shall be \$2,000. Before ninety days prior to the expiration date of the license, applicant or permittee must reapply for permit or license in the manner heretofore described. Failure to do so shall result in non-renewal of the license.

16.7 PENALTY:

- 16.7 Penalty: Any person violating any provision of subsection 16.5-3 through subsection 16.5-6 of this Ordinance shall be fined not less than one hundred fifty dollars (\$150.00) nor more than seven hundred fifty dollars (\$750.00) for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

16.8 SHORT TERM RENTALS:

16.8-1 Definitions: As used in this Section 16.8, the following words and phrases shall have the following meanings:

GUEST: A person or persons paying compensation for and staying in a short term rental guestroom overnight for one or more days, up to a maximum of 90 days, as well as any invitee thereof listed on the rental agreement, and having a permanent residence at an address other than the address of the short term rental temporarily occupied.

GUESTROOM (OR GUEST UNIT): A room equipped with a closet and bed(s) intended as habitable space for sleeping purposes (this is declarative of existing law). Short term rental guests may not stay overnight in any portion of the short term rental not designated as a guestroom in the floor plan attached as an exhibit to an ordinance granting a conditional use for a short term rental for a given property.

MANAGER: An authorized agent of the Owner who is located within a fifteen (15) mile radius of the short term rental and is available to respond to complaints at all times during the rental period.

OWNER: Any natural person who is an owner of record of the subject property.

PRIMARY RESIDENCE: An Owner's usual place of return for housing as documented by each of the following: current motor vehicle registration; current driver's license; current voter registration; and property tax documents showing the subject property as the Owner's residence for the purposes of a homeowner's property tax exemption. A person may have only one Primary Residence.

SHORT TERM RENTAL: A dwelling unit or portion thereof located in the B-1, B-2 or B-5 business zoning district and offered for and occupied as overnight accommodations on a temporary basis to one or more paying guests in no more than six (6) guestrooms for a period not to exceed ninety (90) consecutive days to such guest or guests. If the rental arrangement is for a period of more than 90 days and allows a guest or guests the option of terminating such rental prior to the expiration of a 90-day period, and such termination in fact occurs prior to the expiration of such 90-day period, such occupancy by such guest or guests shall be deemed to be a short term rental. Short term rental Owners may, but are not required to, live in the short term rental during the periods when the property is rented, however the short term rental property must be the Owner's primary residence. The term "short term rental" shall not include "house swapping" where a homeowner switches or trades homes with another homeowner in a different town for a short period of time and no money is exchanged. No short term rental is permitted in any residential zoning district within the Village.

VISITOR – A person visiting the guest(s) of a short term rental, who is not included as a guest in the short term rental agreement with the Owner. No visitor shall stay overnight at the short term rental property. The number of visitors shall be regulated by the special use permit specific to the subject property.

16.8-2 Conditional Use Required for Short Term Rental: A conditional use permit is required to operate a short term rental, as defined in this Section 16.8, within the Village. No conditional use permit for a short term rental shall be issued unless authorized by the Board of Trustees following a public hearing, consistent with the requirements of the Village's Zoning Code. The use of any building as a short term rental without an applicable conditional use permit is prohibited.

16.8-3 Application; Information Required: An application for a conditional use permit for a short term rental shall be accompanied by the following information:

- A. A statement as to whether the Owner or any other person with an ownership interest in the property on which the short term rental is proposed to be located has ever been convicted in any jurisdiction of any felony;

- B. Proof from the Owner of the subject property on which the short term rental is proposed to be located that the property is his, her or their Primary Residence; and
- C. The names, addresses, ownership interest and current contact information for the Owner of such property; and
- D. If the proposed short term rental property is subject to regulations or restrictions by a property owners' association or condominium association, the Owner must provide documentary evidence that the applicable association or board has approved the use of the subject property as a short term rental.
- E. If the proposed short term rental property is located on a private road, the applicant must provide documentary evidence that all property owners along the roadway have been notified via certified mail of the public hearing to pursue the conditional use permit for a short term rental in addition to any publication requirements set forth in Section 14.4 of the Zoning Code. Said certified mail notifications must be postmarked at least 15 days prior to the hearing but in no case more than 30 days prior to the hearing.
- F. If the proposed short term rental property is accessed through a shared driveway access, the Owner must provide documentary evidence that all persons sharing the driveway access have been notified via certified mail of the public hearing to pursue the conditional use permit for a short term rental in addition to any publication requirements set forth in Section 14.4 of the Zoning Code. Said certified mail notification must be postmarked at least 15 days prior to the hearing but in no case more than 30 days prior to the hearing.
- G. Plat of survey of the subject property, floor plan of the principal building on the subject property along with a plan depicting the proposed parking of cars and the proposed occupancy of the subject property and an aerial image of the proposed short term rental property which also reflects all adjacent properties.
- H. Documentation demonstrating that the Owner has occupied the subject property for no less than 275 days out of the calendar year as his or her Primary Residence or, if the Owner has not owned the subject property for the full preceding calendar year, for no less than 75% of the days he or she has owned the subject property.

16.8-4 Departmental Duties; Requirements and Standards:

- A. The Village's Building Department and the McHenry Fire Protection District (the "Fire Protection District") shall inspect each short term rental before the initial renting out of any short term rental for compliance with all applicable Village Building, Fire, Property Maintenance and other code requirements as well as Village and State regulations. Thereafter, the Village Building Department and the Fire Protection District

- shall inspect the short term rental at least once every two (2) years. Short term rentals shall be subject to compliance inspections by officers of the Village's Police Department and staff members of Building Department as well as the Fire Protection District, at any time upon reasonable notice. In order for a conditional use permit to issue, among other requirements set forth herein, a short term rental must comply with all Village Building, Fire, Property Maintenance and other code requirements and Village and State regulations.
- B. The Village's Administration Department shall maintain a list of approved short term rental properties and post same on the Village's website. Said list shall include the rental address, and the Owner's and Manager's (if any) name and phone number.
- C. No Owner of a short term rental shall:
1. Rent any short term rental for any period of time shorter than seven (7) consecutive days;
 2. Rent any short term rental more than once within any consecutive twenty-four (24) hour period measured from the expiration of one rental to the commencement of the next;
 3. Rent the property as a short term rental for more than ninety (90) consecutive days to any guest;
 4. Rent the property as a short term rental for more than ninety (90) days in a calendar year;
 5. Advertise an hourly rate or any other rate for a short term rental based on a rental period of fewer than seven (7) consecutive days;
 6. Serve or otherwise provide to any guest any food or beverage other than food or beverages that are pre-packaged and sealed by the manufacturer for individual serving; or
 7. Cause or permit, by action or failure to act, the short term rental or its use to suffer from and/or create any violation of the Zoning Code.
- D. The Owner of every short term rental shall post, in a conspicuous place within the short term rental, the name and telephone number of the Owner or his or her Manager, notice that the short term rental shall have quiet hours from ten o'clock (10:00) P.M. to eight o'clock (8:00) A.M., an emergency exit floor plan, and the location of fire and safety equipment.
- E. Every short term rental Owner or its Manager must be located within a fifteen (15) mile radius of the short term rental when it is being rented to one or more guests and

must be available to respond at the subject property to complaints at all times during the short term rental period within one hour's time commencing from the time of the complaint. If the Owner or Manager does not make him or herself available at the subject property subject to the short term rental within such one hour's time, such failure shall be a violation of this subsection 16.8-4(E). The name and phone number of the Owner or the Manager must be submitted to the Village Police Department as well as the Fire Protection District. In the event that there is a material violation of this subsection 16.8-4(E) or the specific conditional use permit for the subject property, such Owner shall terminate the rental promptly at such time.

- F. The kitchen of each short term rental shall be cleaned and sanitized between guests and all opened or perishable food and beverages shall be discarded. All dishes, utensils, pots, pans and other cooking utensils shall be cleaned and sanitized between rental periods of guests.
- G. The Owner or Manager of each short term rental shall change supplied bed linens and towels therein at least once each week, and prior to the letting of any guest room to any new guest. The Owner or Manager shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- H. Any overnight parking for short term rentals must be accommodated on the subject property or in another approved location as specified in the specific conditional use ordinance for the subject property. The number of vehicles permitted shall be set forth in the conditional use ordinance. All parking provisions, including overnight parking, shall be in conformance with Zoning Code requirements.
- I. The Owner or Manager of a short term rental shall compile a list of guests and their associated vehicle license plate numbers upon check-in and make such information immediately available to the Village's Police Department at any time upon request.

16.8-5 Prohibitions: No conditional use permit for a short term rental shall be issued to or allowed to be held by:

- A. Any Owner, if such Owner or any other person with an ownership interest in the property on which the short term rental is located, including any co-owner, has ever been convicted in any jurisdiction of any felony.
- B. Any Owner whose special or conditional use permit (or license, if outside the Village) to operate a short term rental or similar establishment at any location within or outside the Village has been revoked for cause within the last three (3) years.
- C. Any Owner or any other person with an ownership interest in the property on which the short term rental is located, including any co-owner, has failed to pay to the Village any payment of water and sewer charges, special taxes or assessments, parking and other Village violation citations or judgments, motor vehicle tax or any other tax-

es or fees that are due and unpaid by such person to the Village, or where there was delinquent property taxes owed to McHenry County on the property on which the short term rental is located, or any other property owned within the Village by the Owner or any co-owner of the property.

16.8-6 Legal Duties: Each Owner who receives a conditional use permit for a short term rental for a given property shall be required to:

- A. Provide the Village with an insurance certificate indicating that the Owner and the subject property are covered by commercial liability insurance with limits of not less than one million dollars (\$1,000,000.00) per occurrence, for bodily injury and property damage arising in any way from and after the issuance of the conditional use permit. Each policy of insurance required under this subsection shall:
 - 1. Be issued by an insurer authorized to insure in the State of Illinois;
 - 2. Include a provision requiring thirty (30) days' advance notice to the Village prior to cancellation or lapse of the policy. The Owner shall maintain the insurance required under this section in full force and effect for the duration of the conditional use for each short term rental location. A single violation of this subsection shall result in suspension or revocation of the conditional use permit for the subject property.
- B. Maintain current guest registration records, which contain the following information about each guest; the guest's name, address, signature, room assignment (if applicable) and dates of accommodation. The registration records shall be kept on file for three (3) years and, upon request by any authorized Village official, shall be made available for inspection by such Village official during regular business hours or in case of an emergency;
- C. Comply with all applicable Village building, fire, property maintenance and other code requirements and Village and State regulations, including but not limited to the State Fire Marshal's requirements for one- and two-family dwellings;
- D. Conspicuously display within the short term rental the name and telephone number of the Owner or his or her Manager, notice of the required quiet hours of 10:00 p.m. to 8:00 a.m., an emergency exit floor plan and location of fire and safety equipment; and
- E. Fulfill all requirements of the Illinois Department of Revenue and the Village of Johnsburg for operation of a short term rental, including the payment of any and all applicable hotel taxes.
- F. Notify the Village of any change in ownership of the short term rental within 14 days of the change in ownership. A new Owner is then required to provide the Village all necessary contact information, a new insurance certificate and an affirmation that they

will comply with the conditions set forth herein as well as any conditional use ordinance.

- G. Occupy the subject property for no less than 275 days out of the calendar year as his or her Primary Residence or, if the Owner has not owned the subject property for the full preceding calendar year, for no less than 75% of the days he or she has owned the subject property.
- H. Maintain records for two years demonstrating compliance with subsections 16.8-6(G) and (H), including not limited to information demonstrating the number of days per calendar year that the Owner has occupied the subject property as his or her Primary Residence, the number of days per calendar year the subject property has been rented as a short term rental, and compliance with the insurance requirements herein. These records shall be made available to the Village immediately upon request.

16.8-7 Prohibited Acts: It shall be unlawful for the Owner of any short term rental to:

- A. Exceed the scope of the conditional use permit;
- B. Allow occupancy of the property where the short term rental or any part thereof is situated to exceed the following occupancy limits:
 - 1. In order for a guest room to be utilized as habitable space for sleeping purposes within a short term rental and, for the purpose of determining the number of permitted guests, such room must be a minimum of seventy (70) square feet. For a guest room to be used for sleeping by any guest, such guest room must be a minimum of a seventy (70) or more square feet. Each guest room occupied by more than one person shall contain not less than fifty (50) square feet of floor area for each guest.
 - 2. Kitchens, bathroom, hallways, and closets are not considered habitable rooms for sleeping purposes, thus the square footage represented by these rooms shall not be used.
 - 3. When a short term rental is being rented, the persons allowed at such short term rental shall be limited to Guests and their children ages seventeen (17) and under, plus the Owner, co-owners, Manager, and Owner's family members. Any adult, 18 years of age and older, shall be considered a guest and must be listed on the rental agreement for such short term rental. Visitors of the Guests, if any, shall be regulated by the specific conditional use permit ordinance. The total number of persons allowed at the short term rental property during the rental period shall be based upon the number of guestrooms and minimum square footage of habitable space required for sleeping purposes per guest.

- C. Rent any short term rental for more than ninety (90) consecutive days, or fewer than seven (7) consecutive days, to the same guest;
- D. Rent any portions of the short term rental concurrently to separately booked guests;
- E. Rent the short term rental for more than 90 days in a calendar year.
- F. Allow any outdoor activity on the property of the short term rental between ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M.;
- G. Hold out or utilize a short term rental property as a venue for weddings, conferences, parties, or other events, regardless of the number of attendees;
- H. Erect any external signage regarding the short term rental;
- I. Permit any criminal activity or public nuisance, including excessive noise, to take place on the property. If an Owner or Manager knows or suspects that any criminal activity or public nuisance is taking place on or immediately adjacent to the property, the Owner and/or Manager shall immediately notify the Village's Police Department of such fact and cooperate with the Village Police Department in any investigation that may ensue;
- J. Knowingly make any false or incomplete or misleading statement about the Owner's criminal background, or the criminal background of any other person with an ownership interest in the property, in connection with any conditional use permit application submitted pursuant to this Section 16.8; and
- K. Be in violation of any other requirement of this Section, the Zoning Code, any Village ordinance or any rules or regulations promulgated under any of the foregoing.
- L. No Owner of a property, or any other party, shall allow or cause to be conducted a short term rental on any property in any residentially zoned district within the Village. If there is any inconsistency between this provision and any other provision in the Zoning Ordinance, the terms of this provision shall control, govern and prevail.

16.8-8 Penalty: Any one violation of Section 16.8, or any rules or regulations promulgated under this Section, may result in fines, suspension or revocation. A violation of this Section 16.8 is subject to a fine of not less than seven hundred fifty dollars (\$750.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each day that a violation continues shall constitute a separate and distinct offense. In addition to any other penalty, suspension or revocation provided for by this Section 16.8 or by law, three (3) or more violations of this Section 16.8, any Village ordinance or this Zoning Code, or any rules or regulations promulgated under any of the foregoing, by the Owner, Manager or related to the short term rental property, on three (3) different days within any twelve (12) month period, shall result in a mandatory suspension of the conditional use permit.

16.9 VEHICLE CONDOMINIUMS

16.9-1 Definitions: As used in this Section 16.9, the following words and phrases shall have the following meanings:

VEHICLE CONDOMINIUMS (VEHICLE CONDOS): A building in which an individual purchases and owns individual space primarily for the display and exhibiting or featuring such individual's operable vehicles, owned by and titled to such individual owning such space including custom, antique, or vintage vehicles, recreational vehicles, motorcycles, watercraft and/or boats, and, secondarily, for the storage of such individual's operable vehicles described in this definition. Vehicle Condos may be improved with a kitchen, bathroom and socializing facilities, and a remote office space so long as there is no direct physical customer interaction or deliveries being made to such location, but shall not include a bedroom. Each such Vehicle Condo may also be used to store an individual's personal property reasonably used in connection with (i) the use, maintenance, transportation, and/or display of such vehicles, as well as (ii) the kitchen, bathroom and socializing facilities. At no time shall a Vehicle Condo be utilized as a place of residence, incorporate sleeping quarters or have any other storage of any kind.

MINI-MOTOR CAVE: A building with individual units measuring less than 1000 square feet, designed for the storage of personal vehicles, recreational vehicles, motorized vehicles, or motorcycles. Each such individual unit may also be used to store an individual's personal property reasonably used in connection with (i) the use, maintenance, transportation, and/or display of such vehicles. At no time shall a Mini-Motor Cave be utilized for any other storage of any kind nor shall they be used to conduct vehicle repairs.

DRIVE-UP BOAT STORAGE (DUBS): A building with individual units for the storage of boats, watercraft, and associated equipment and shall have direct access to a marina. Each such unit may also be used to store and/or display an individual's personal property reasonably used in connection with the use, maintenance, transportation, and/or display of such boats, watercraft and associated equipment. At no time shall a Drive-Up Boat Storage Unit be utilized for any other storage of any kind, or to perform repairs to said boats, watercraft or associated equipment.

16.9-2 Conditional Use Required for Vehicle Condominiums Mini-Motor Caves, and/or DUBS: A conditional use permit is required to construct, operate or use a Vehicle Condominium, , a Mini-Motor Cave, and/or DUBS, as defined in this Section 16.9 within the Village. No conditional use permit for Vehicle Condominiums, a Mini-Motor Cave, and/or DUBS shall be approved unless authorized by the Board of Trustees following a public hearing, consistent with the requirements of the Village's Zoning Code. The construction, operation or use of any building as a Vehicle Condominium, Mini-Motor Cave or DUBS without an applicable conditional use permit is prohibited. A Vehicle Condominium, Mini-Motor Cave or DUBS shall only be permitted if: i) the property on which such conditional use is proposed is part of a planned development; ii) the property is part of a planned development consisting of least 15 acres in size which includes as a major component of such planned development, retail sales and a restaurant; iii) is situated in the B-2 zoning district; and iv) the Village approves an application for same as set forth in

16.9-3. No outside storage is permitted with any conditional use for Vehicle Condominiums, Mini-Motor Cave, or DUBS.

16.9-3 **Application**; When applying for a conditional use permit for a Vehicle Condominium, Mini-Motor Cave or DUBS, the applicant must submit the following information:

- A. An application identifying the petitioner(s) and the development team along with their contact information; property owner contact information; address, legal description, general description and property index numbers associated with the property; a detailed summary of the proposed use of the property; current zoning of the property and the requested conditional use permit for the subject property. Said application shall be signed by both the property owner(s) and petitioner(s).
- B. A development plan which shall include the following:
 - 1. A plat of survey of the property prepared by a registered land surveyor.
 - 2. A topographic map of the property with a contour interval of not more than two feet.
 - 3. A preliminary, conceptual site plan drawn to scale showing the approximate location of all buildings, structures, and improvements and indicating the open spaces around buildings and structures. A final plan to be submitted to the Village's Planning and Zoning Commission and which must be approved by the Village Board of Trustees shall be a condition precedent to the issuance of a building permit for such property for any requested conditional use provided for in this Section 16.9.
 - 4. Landscape plan.
 - 5. Lighting plan.
 - 6. Proposed signs.
 - 7. An architectural plan including elevation and perspective drawings of all proposed building structures and improvements.
 - 8. An inventory and evaluation of all significant environmental features of the property, including, but not limited to, lakes, streams, ponds, marshes, soil conditions, including sand and gravel, flood plains and wooded areas and indicating any limitation resulting from natural conditions on the property.
 - 9. Covenants which govern the use, maintenance and continued protection of the development, including but not limited to the requested conditional use

permit and any of its common open areas, other facilities and improvements. If the Village approves such covenants, such covenants shall provide that no revisions may be made to same without the Village's written approval.

10. A development schedule indicating:

- a. The approximate date when construction of the project can be expected to begin;
- b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;
- c. The anticipated rate of development;
- d. The approximate date when the development of each of the stages will be completed;
- e. The area and location of common open space that will be provided at each stage of development; and
- f. The date for completion of the landscape plan and architectural plan.

The plans set forth in 16.9-3(B)(1-10) shall be incorporated into the ordinance for such conditional use if approved by the Village.