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**\*Please Note:**

Each figure is placed on an unnumbered page at the end of the Article referenced.



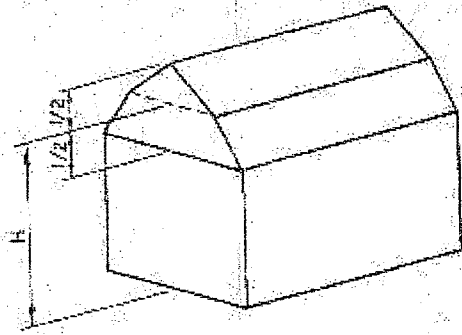
**FIGURES**

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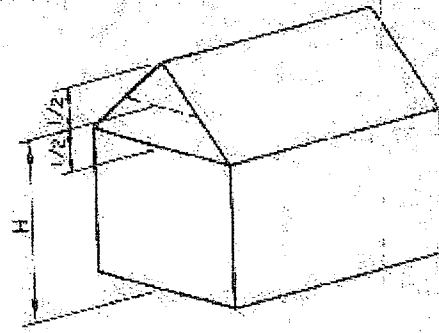
\*Please Note:

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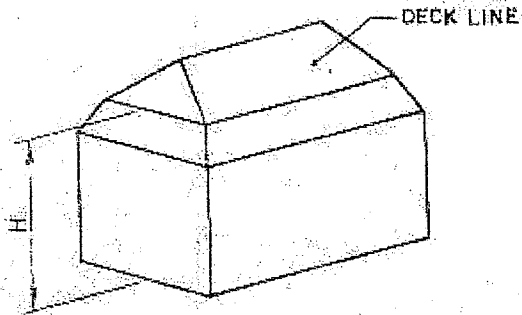
FIGURE - 1



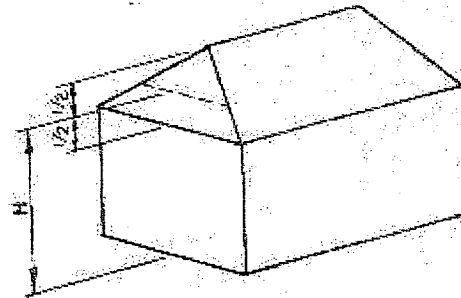
GAMBREL ROOF



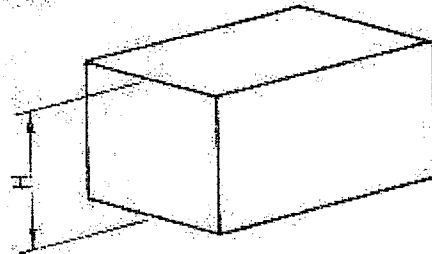
GABLE ROOF



MANSARD ROOF



HIP ROOF



FLAT ROOF

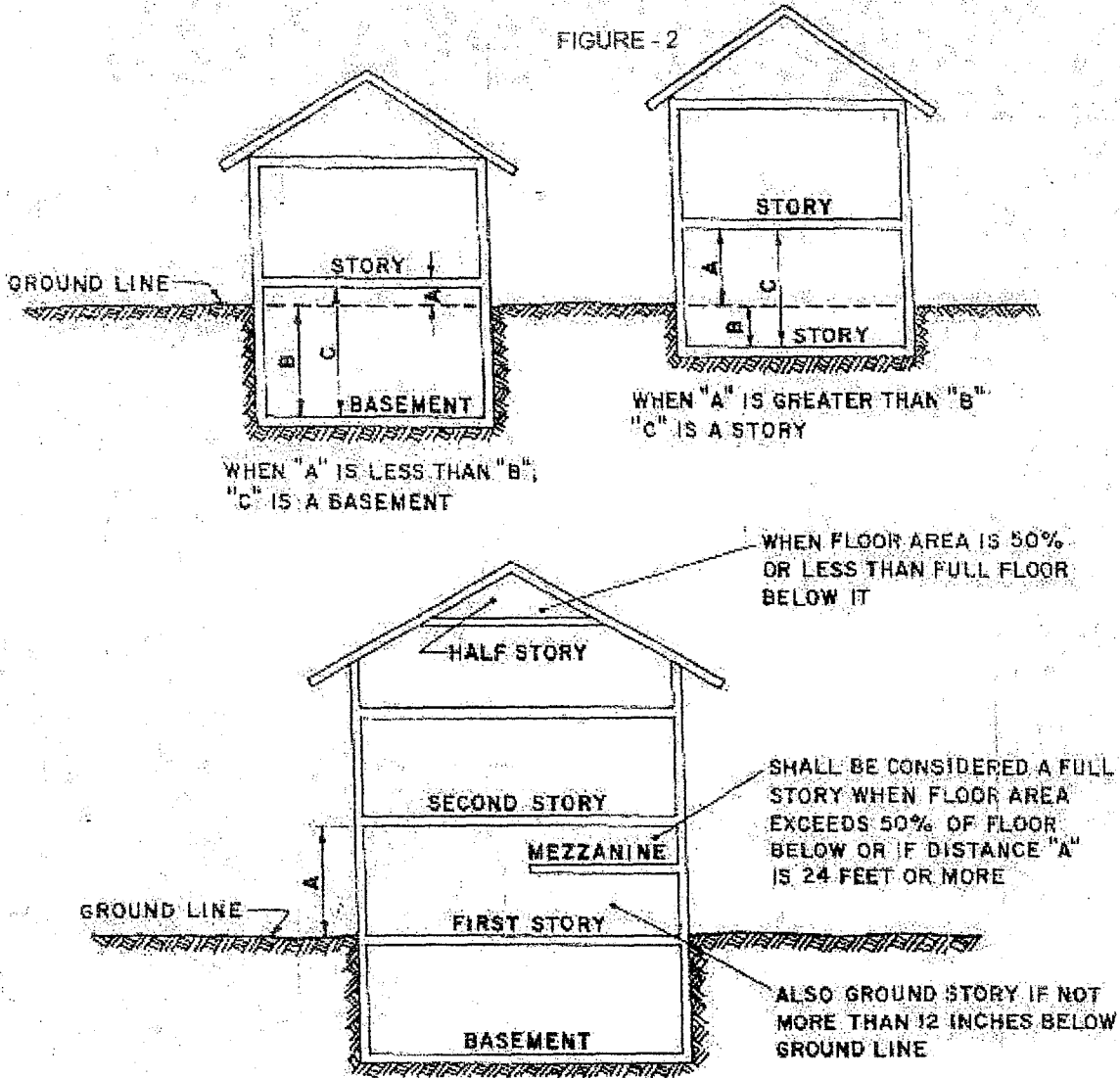
H = HEIGHT OF BUILDING

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**BUILDING HEIGHT REQUIREMENTS**

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FIGURE - 2

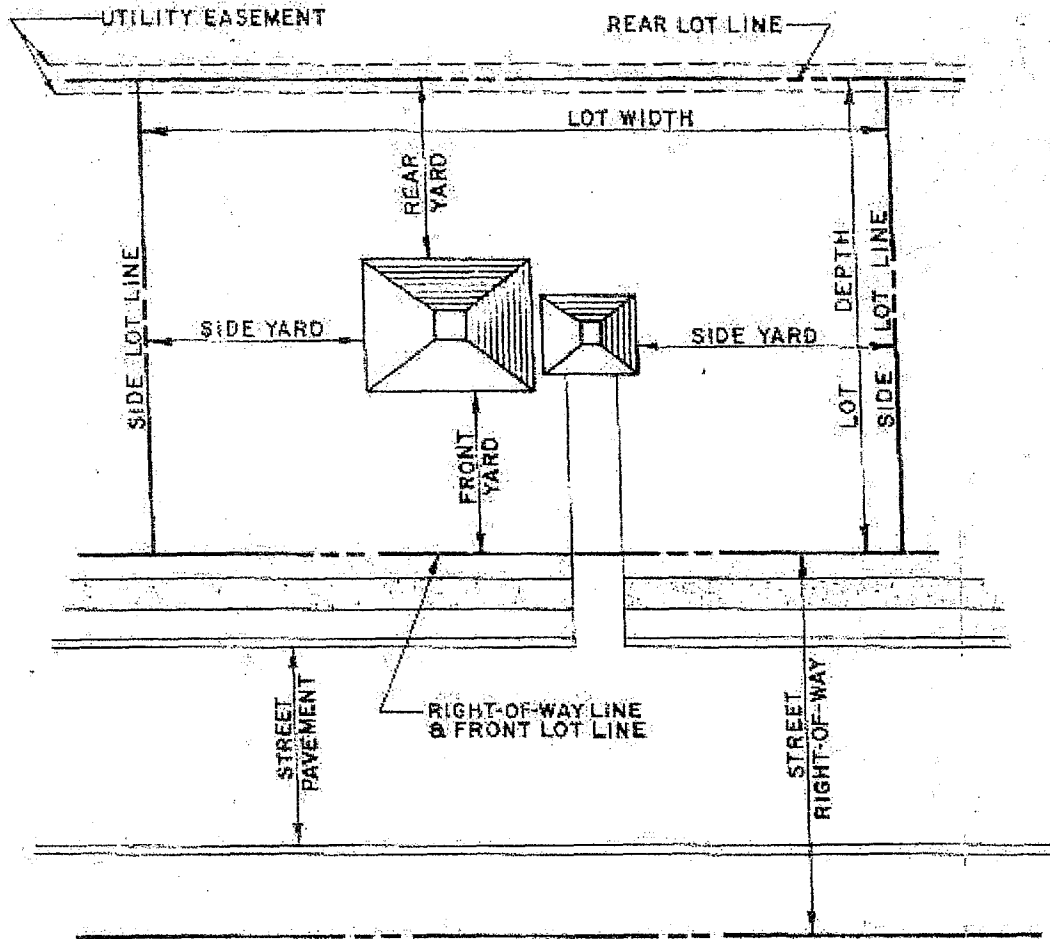


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STRUCTURAL TERMINOLOGY

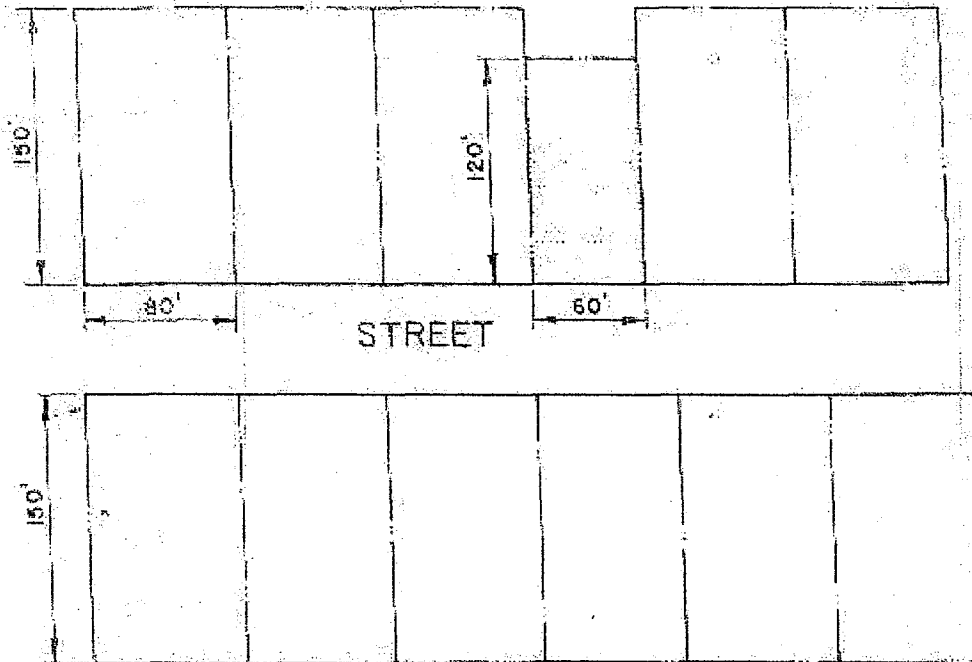
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FIGURE - 3

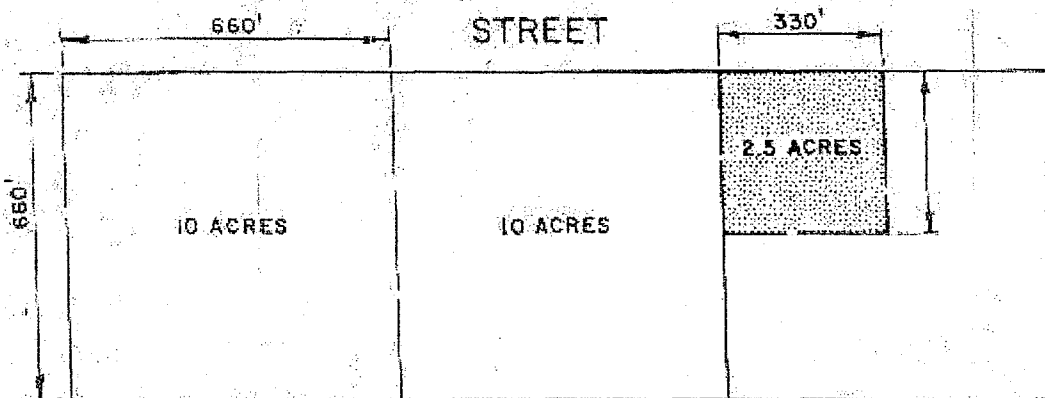


— LOT TERMINOLOGY —

FIGURE - 4  
NON-CONFORMING LOT (PLATTED) OF RECORD  
ZONING REQUIRES MINIMUM LOT SIZE OF 80' X 150'



NON-CONFORMING LOT (PARCEL) OF RECORD

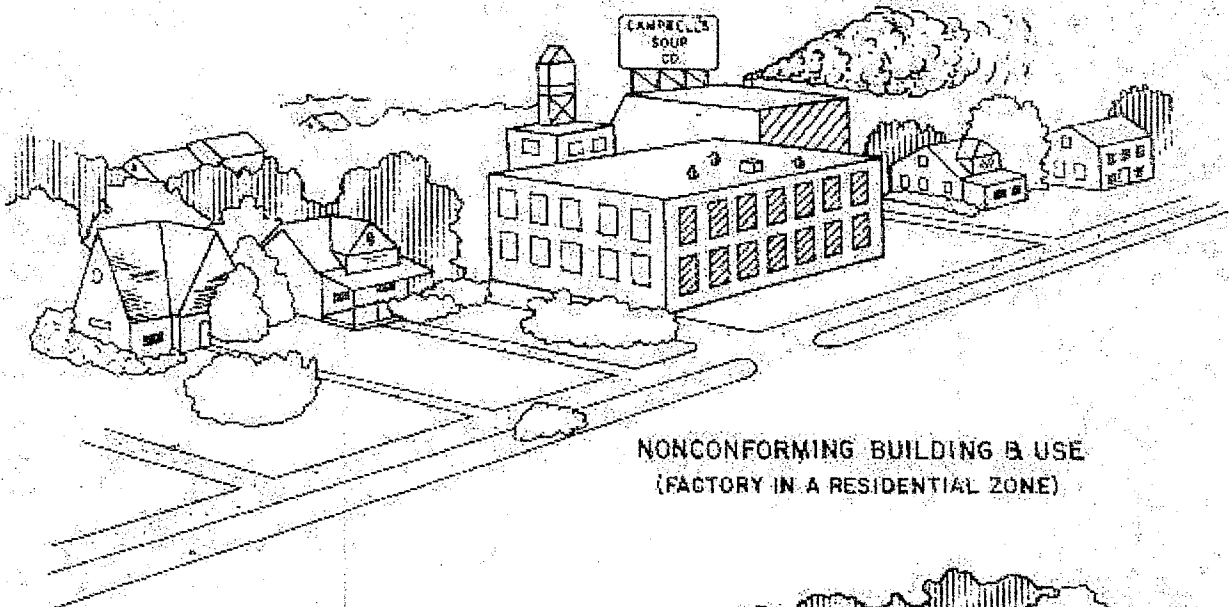


ZONING REQUIRES MINIMUM LOT SIZE OF 10 ACRES

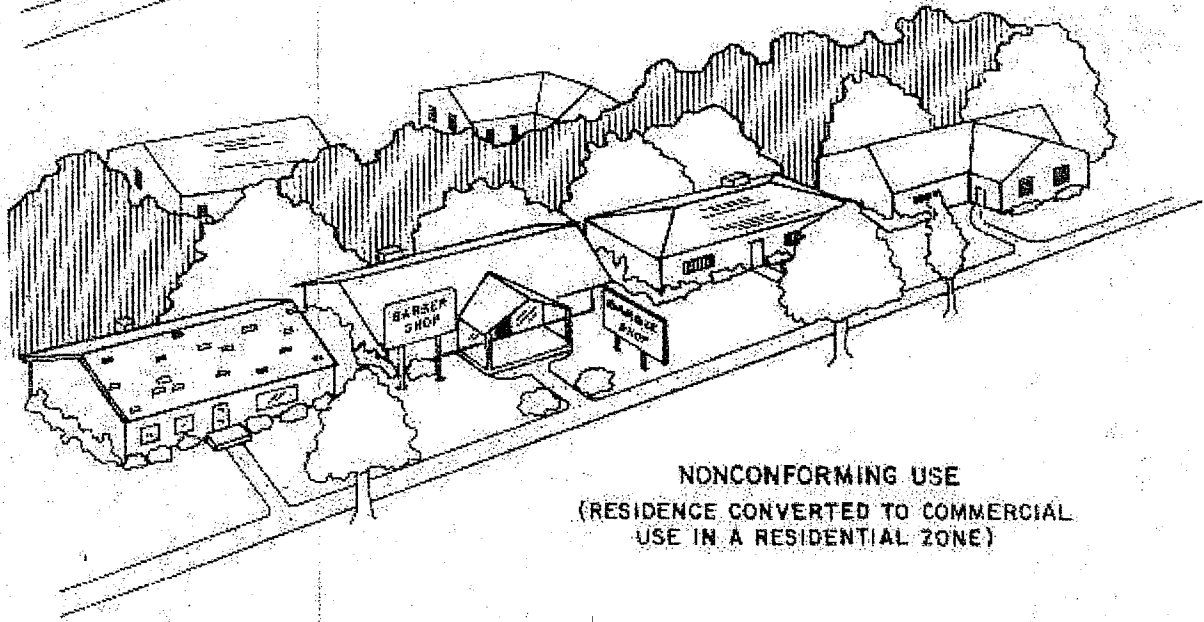
EXAMPLES OF NON-CONFORMING LOTS

WILKINS B. WHEATON ENGINEERS/PLANNERS, INC.

FIGURE - 5



NONCONFORMING BUILDING & USE  
(FACTORY IN A RESIDENTIAL ZONE)



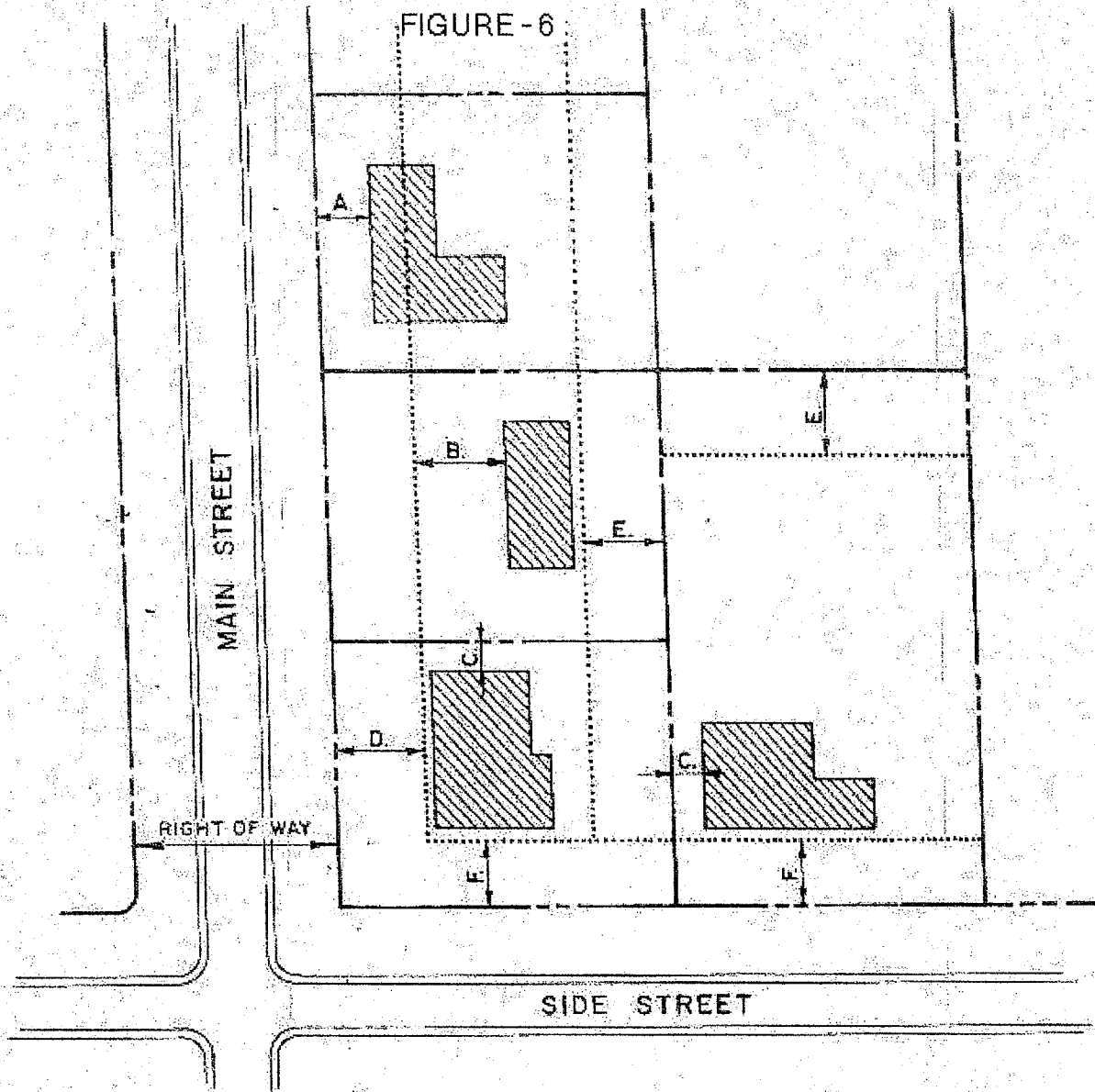
NONCONFORMING USE  
(RESIDENCE CONVERTED TO COMMERCIAL  
USE IN A RESIDENTIAL ZONE)

---

NONCONFORMING USE

---

FIGURE -6



- A. DEFICIENT FRONT YARD
- B. FRONT YARD IN EXCESS OF MINIMUM FRONT YARD REQ'D
- C. MINIMUM SIDE YARD REQ'D
- D. MINIMUM FRONT YARD REQ'D, ALSO BUILDING SETBACK LINE
- E. MINIMUM REAR YARD REQ'D
- F. MINIMUM YARD REQ'D, ON SIDE STREET WITH HOME FRONTAGE

YARD REQUIREMENTS

WILKINS B. WHEATON ENGINEERS/PLANNER

# FIGURE - 7

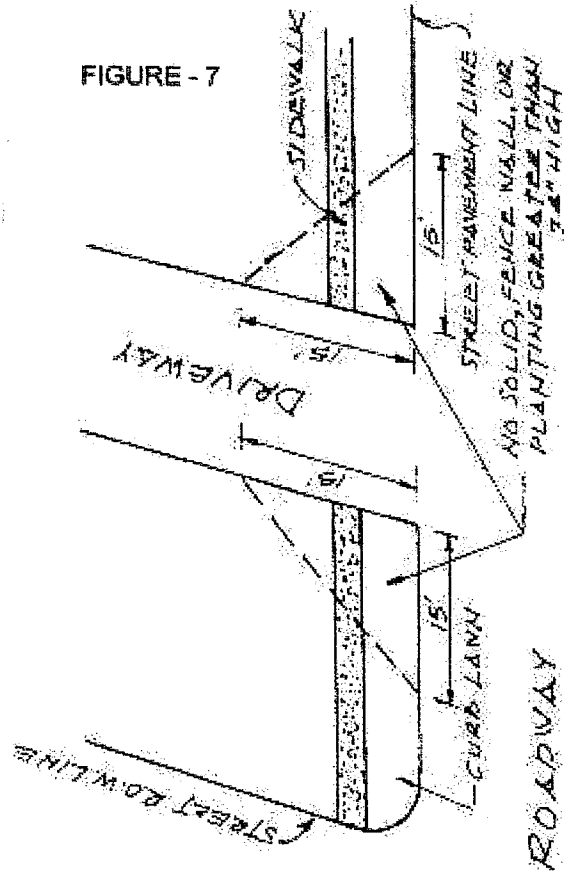


FIGURE - 7

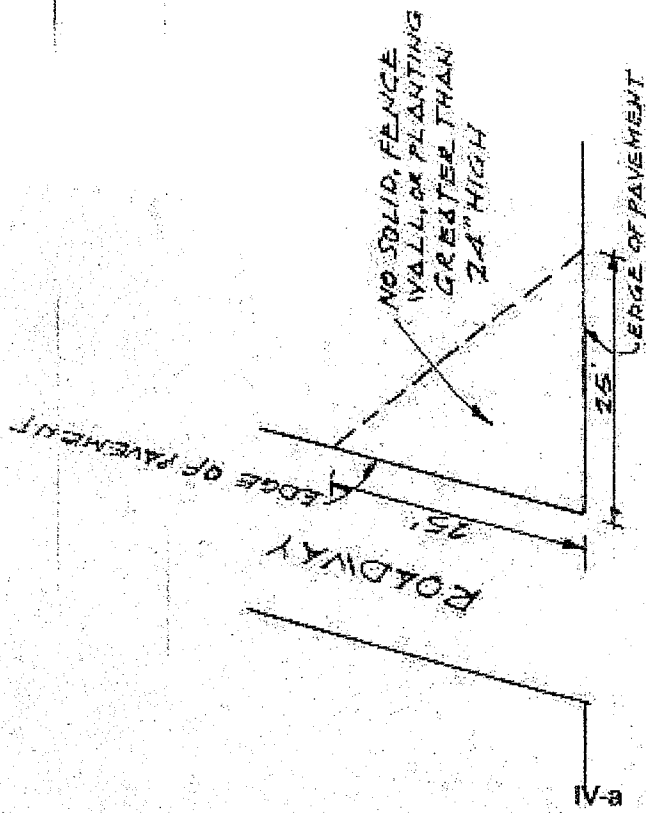


EXHIBIT "B"

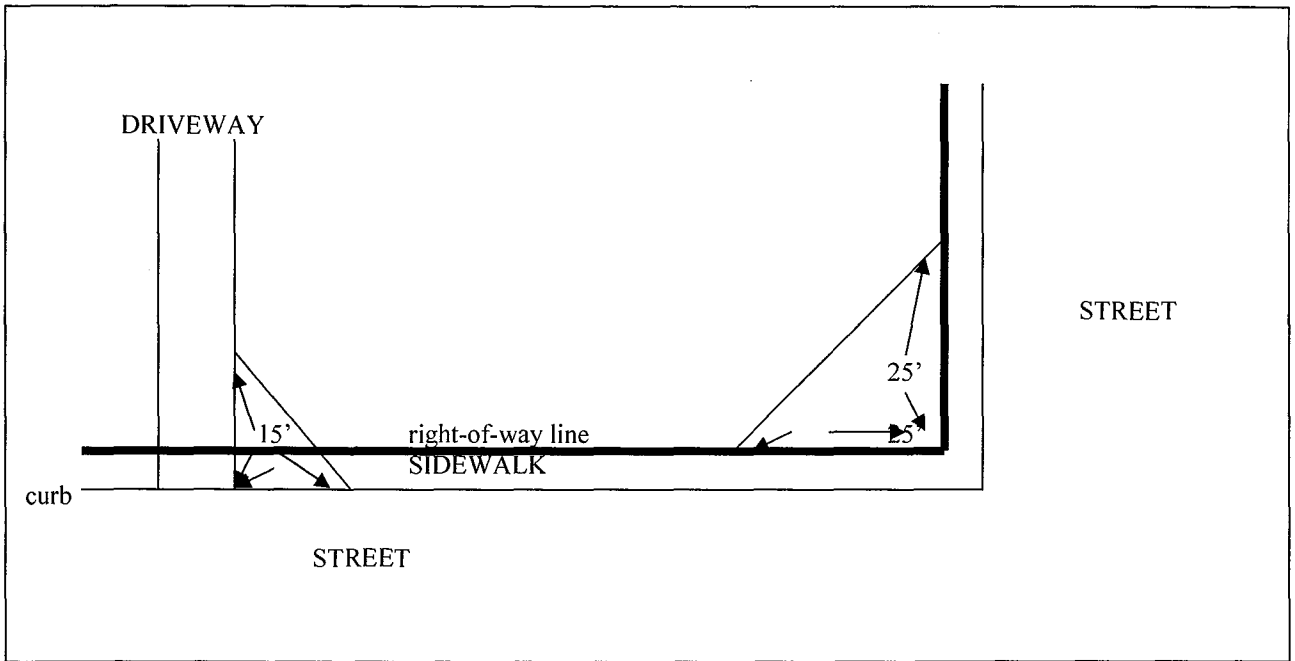
VISIBILITY TRIANGLES

EXHIBIT "A"

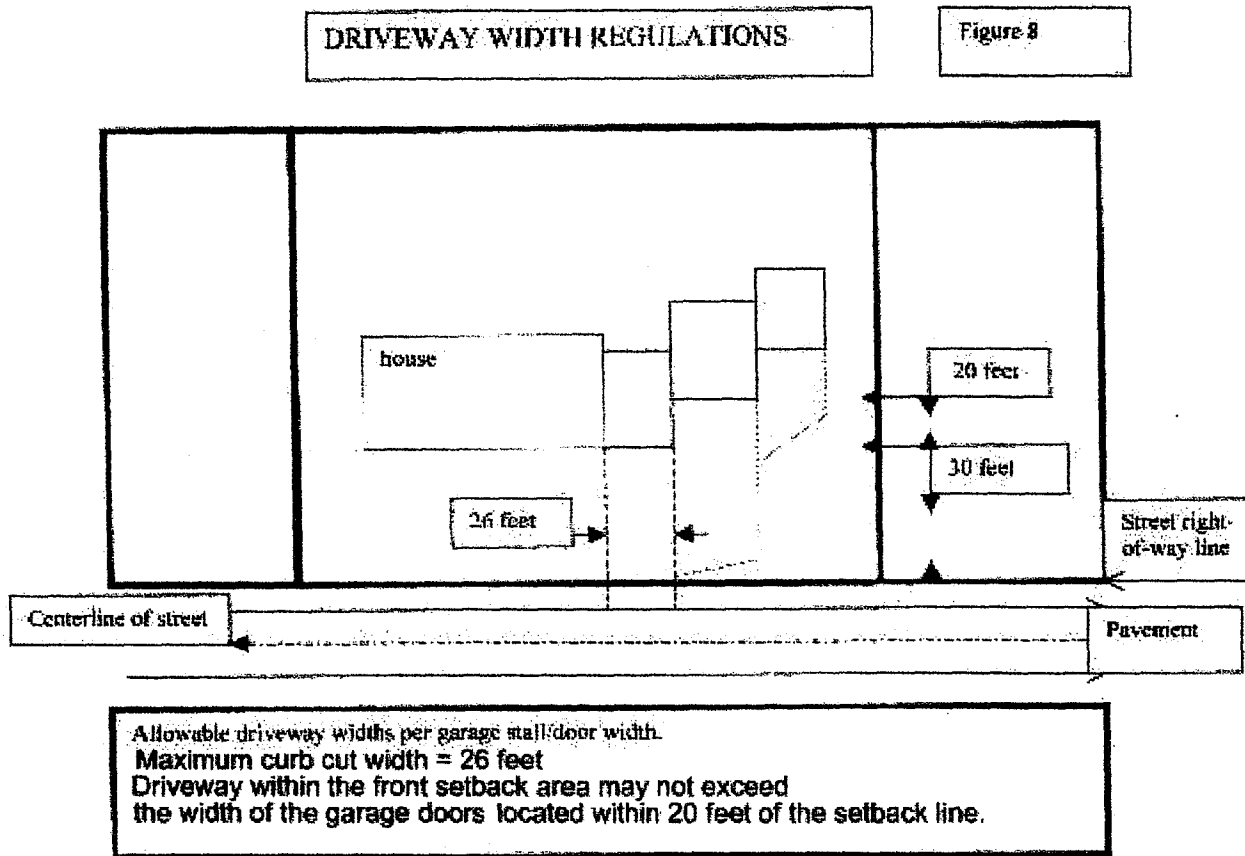
COMPILED BY  
 WILKINSON ENGINEERING CONSULTANTS  
 KALAMAZOO, MICHIGAN



Figure 7, Exhibit A:



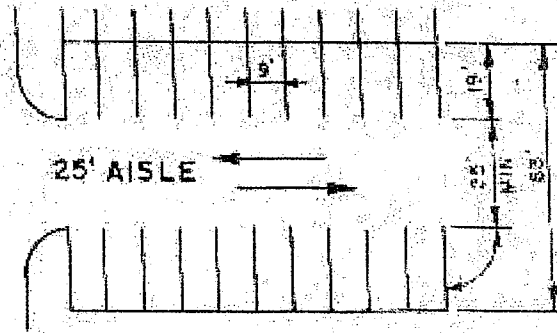
# FIGURE - 8



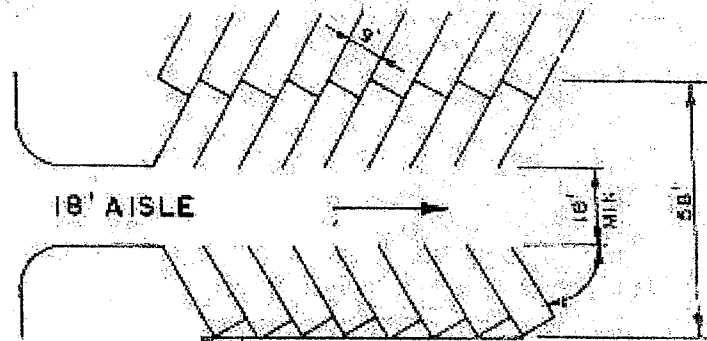
# FIGURE - 9

90° PARKING

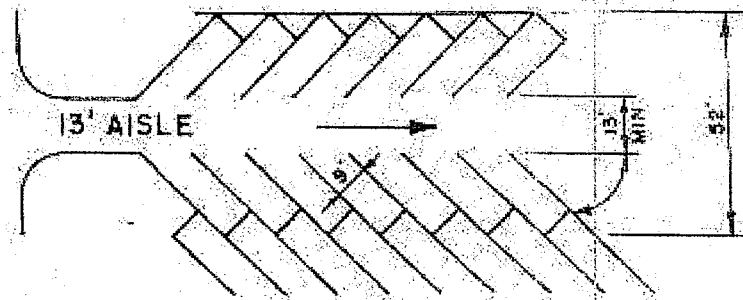
FIGURE - 9



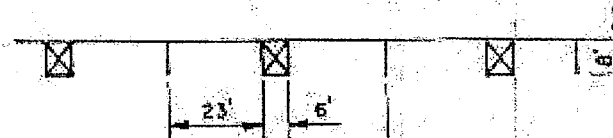
60° PARKING



45° PARKING



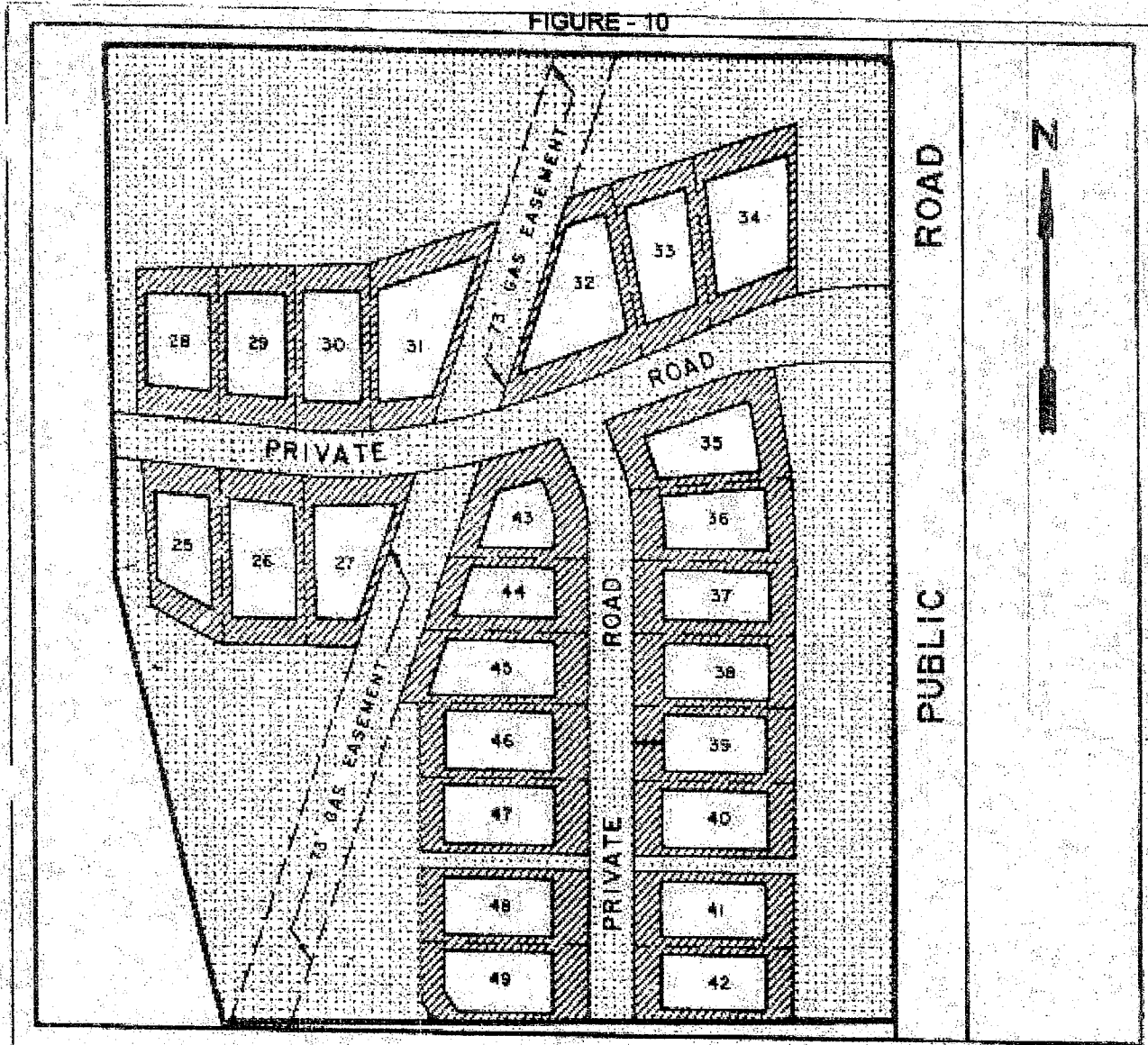
PARALLEL PARKING





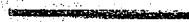

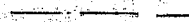


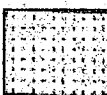
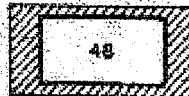
SCALE: 1" = 40'

## PARKING LAYOUTS

**FIGURE - 10**



**SITE CONDOMINIUM TERMS**

- |   |  |   |                                    |
|---|--|---|------------------------------------|
|  | RIGHT-OF-WAY LINE                              |  | EASEMENT LINE                      |
|  | PARCEL LINE                                    |  | SETBACK                            |
|  | LIMITS LINE OF LIMITED COMMON ELEMENT FOR UNIT |  | LIMITED COMMON ELEMENT (YARD AREA) |
|  | CONDOMINIUM UNIT                               |  | GENERAL COMMON ELEMENT             |
|  | BUILDING SITE                                  |   |                                    |

NOTE: ALL LIMITED COMMON ELEMENT AREAS ARE CONVERTIBLE AREAS

WILKINS B WHEATON ENGINEERS/PLANNERS, INC.

**CITY OF FENNVILLE**

**MICHIGAN**

**ZONING ORDINANCE**

**ARTICLE I**

**PREAMBLE**

**1.0 ENACTMENT AND AUTHORITY**

The City Commission of the City of Fennville in the County of Allegan under the authority of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, hereby ordains, enacts and publishes this Ordinance. [amended 8-7-06]

**1.1 SHORT TITLE**

This Ordinance shall be commonly known as the “City of Fennville Zoning Ordinance”.

**1.2 PURPOSE IN VIEW**

The City of Fennville Zoning Ordinance, including all text, maps and schedules, is based upon the City of Fennville Land Use Plan and is intended and designed to achieve the following purposes:

- A. Protect and promote the public health, safety and general welfare;
- B. Provide for the orderly growth and development of the City, consistent with the City’s Land Use Plan;
- C. Establish various districts in the City to regulate the use of land and structures to ensure that the use of land will be situated in appropriate locations and relationships;
- D. Encourage the use of lands and natural resources in the City in accordance with their character and adaptability;
- E. Limit the incompatible uses of land and prevent conflicts among the use of lands and buildings;
- F. Encourage a wide range of housing opportunities;
- G. Preserve the character and value of historic areas and structures;
- H. Preserve and enhance the appearance and viability of the Central Business District;
- I. Ensure the orderly development and operation of commercial and industrial uses;

City of Fennville Zoning Ordinance

- J. Limit the inappropriate overcrowding of land and congestion of population, transportation and other public facilities; and
- K. Provide for adequate and efficient transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility requirements.

## ARTICLE II

### DEFINITIONS

#### 2.0 RULES APPLYING TO INTERPRETATION

The following rules of construction shall apply to the interpretation of the text of this Ordinance.

- A. Except with respect to the definitions which follow in Section 2.1, the headings that title an article, section or subsection of this Ordinance are used for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
- B. Unless the context clearly indicates to the contrary:
  - 1. Words used in the present tense shall include the future tense;
  - 2. Words used in the singular number shall include the plural number; and
  - 3. Words used in the plural numbers shall include the singular number.
- C. The word “person” includes a firm, association, partnership, joint venture, corporation, company, trust, municipal or public entity or equivalent entity or a combination of any of them as well as a natural person.
- D. The word “shall” is always mandatory and not discretionary, the word “may” is permissive.
- E. The word “used” or “occupied” as applied to any land, building or structure, shall be construed to include the words “intended, arranged, or designed to be used or occupied.”
- F. The words “legal record” mean the circumstance where the legal description of a lot or parcel of land has been recorded as part of a document on record in the office of the Register of Deeds, Allegan County, Michigan.
- G. The word “City” means the City of Fennville, Allegan County, Michigan.
- H. The words “City Commission” mean the City Commission of the City of Fennville.
- I. The words “Planning Commission” mean the Planning Commission of the City of Fennville.
- J. The words “Board of Appeals” mean the Zoning Board of Appeals of the City of Fennville.
- K. Any word or term that is not defined in this Ordinance shall be considered to be defined in accordance with its common or standard definition.

## 2.1 DEFINITIONS

A. (“A”)

1. Accessory Building

A structure, building or portion of a main building or structure on the same lot or parcel of land as the main building or structure, the use of which is of a nature customarily and clearly incidental and subordinate to the use of the main building or structure. Where an accessory building is attached to a main building in a substantial manner by a roof, such accessory building shall be considered part of the main building, including a carport, covered porch or other roofed structure.

2. Accessory Use

A use of a nature customarily and clearly incidental and subordinate to the main or principal use of the land, lot, building or structure.

3. Adult Foster Care Facility

“Adult Foster Care Facility” means a governmental or nongovernmental establishment having at its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility includes homes for the aged. Adult foster care facility does not include any of the following:

- a. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care.
- b. A facility created by Act No. 152 of the Public Acts of 1885, as amended.
- c. A nursing home licensed under Article 17 of Act No. 368 of the Public Acts of 1978, as amended.
- d. A hospital licensed under Article 17 of Act No. 368 of the Public Acts of 1978, as amended.
- e. A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of mental health under Act No. 258 of the Public Acts of 1974, as amended.
- f. A county infirmary operated by a county department of social services under Section 55 of Act No. 280 of the



Public Acts of 1939.

g. A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under Act No. 116 of the Public Acts of 1973, as amended. If the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the greater of 2 persons or 5% of the number of residents in the institution, camp or home, and if all of the residents in the institution, camp or home are less than 26 years of age.

4. Aged  
An adult whose chronological age is 60 years of age or older or whose biological age, as determined by a physician, is 60 years of age or older.
5. Alley  
A publicly or privately controlled right-of-way not more than thirty (30') wide affording only secondary means of vehicular access to abutting lots and lands and which is not intended for general traffic circulation.
6. Alterations  
Any change, addition, or modification in the construction of any building or structure, including but not limited to any change in the supporting members, bearing walls, columns, posts, beams, girders or roof structure, any architectural change of the interior or exterior of a building or structure that may affect its structural integrity, or any addition to or diminution of a structure or building.
7. Animal  
Animal shall mean dog, cat, bird, reptile, mammal, fish or any other dumb creature.
8. Automobile or Trailer Sales Area  
An area used for the display, sale or rental of new and used motor vehicles, boats, trailers or recreation vehicles (including mobile homes) in operable condition and where no repair work is done.
9. Automobile Repair – Major  
Any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines or trailers, collision services, such as body, frame or fender straightening and repair, overall painting and vehicle rust proofing.
10. Automobile Repair – Minor  
Any activity involving minor repairs to motor vehicles and the incidental replacement of parts of such vehicles. A place where

either gasoline or any other fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and applied directly into motor vehicles, including sale of accessories, greasing, oiling and minor automotive repair on the premises.

11. Automobile Wash Establishment

A building, or portion thereof, the primary purpose of which is that of washing motor vehicles and in which the driver remains in or near the vehicle.

B. (“B”)

1. Basement or Cellar

That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

2. Bed and Breakfast Facility

A bed and breakfast facility is a private residence, other than a hotel, where lodgings and light breakfasts for persons, other than family, are regularly served for compensation, and is licensed by the State of Michigan as a Bed & Breakfast Inn.

3. Bedroom

The term bedroom means a room or area within a dwelling unit designed and intended to provide sleeping accommodations for one or more human beings.

4. Billboard

Any building or structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising either: (a) a business, service, entertainment, activity, or event which is not conducted on the land upon which the building is located; (b) a product which is not primarily sold, manufactured, processed, or fabricated on the land upon which the building is located; (c) a second building which is not located on the land upon which the first building is located; (d) a geographical location or place which is not located on the land upon which the building is located; or (e) a person. However, any building which meets the definition of a directional sign shall not be considered to be a billboard.

5. Block

The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street or railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of

the foregoing and other barrier to the continuity of development, or incorporated boundary lines of the City of Fennville.

6. Building  
A building is an edifice, framed or constructed and designed to stand more or less permanently and covering a space of land, for use as a dwelling, store, storehouse, factory, sign, shelter or for some other useful purpose. Building in this sense includes a trailer, tent, or vehicle used as a dwelling.
7. Building, Existing  
An “existing” building is any building actually constructed or the construction of which is started previous to the effective date of this Ordinance: Provided, that the construction of any such building continues uninterruptedly and is completed within six (6) months from such date. Any building damaged by fire, collapse, or decay to the extent of its full-assessed value as of record at the time of damage shall not be considered an existing building.
8. Building, Height  
Building height is the vertical distance from the average elevation of the adjoining natural grade paralleling the front, or if on a street corner, the front and side, of the building, to the highest point of the roof surface if the roof is flat; to the deck line, if the roof is the mansard type; or the average height between the eaves and the ridge if the roof is gable, hip or gambrel type. (See figure 1)
9. Building Line  
A line parallel to the front lot line, and which marks the location of the building.
10. Building Inspector  
The officer charged with the administration and enforcement of the building code, or his/her duly authorized representative.
11. Building Permit  
A permit signifying compliance with the provisions of this Ordinance, as to use, activity, bulk and density, and with the requirements of all other development codes and ordinances currently in effect in the City of Fennville.
12. Building Site  
A lot, or a two dimensional condominium unit of land (i.e. envelope, footprint) with or without limited common element designed for construction of a principal structure or a series of principal structures plus accessory building. All building sites shall have access to public or private roads.

C. (“C”)

1. CHURCH  
A church is a building used principally for religious worship, but the word “church” shall not include or mean an undertaker’s chapel or funeral building.
2. Clinic, Medical  
A building or group of buildings where human patients are admitted, but not lodged overnight, for examination and treatment by one or more professional, such as a physician, dentist or the like.
3. Clinic, Veterinary  
A building or group of buildings where animals are admitted, treated and may be kept overnight for examination and treatment by one or more professional or paraprofessional.
4. Commercial Use  
A commercial use relates to the use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of offices or recreational or amusement enterprises. Garage, rummage, basement, porch, lawn sales and similar sales conducted on residential premises are hereby deemed a commercial use, if such sales are conducted on more than two (2) occasions during any consecutive twelve (12) month period or if either of said two sales lasts for more than six (6) days.
5. Commercial Vehicle  
Any motor vehicle other than a motorcycle or passenger automobile designed or used primarily for transportation of persons or property.
6. Common Elements  
Portions of the condominium project other than the condominium units.
7. Condominium Unit  
That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, or any other type of use.
8. Construction  
The building, erection, alteration, repair, renovation (or demolition or removal) of any building, structure or structural foundation; or

the physical excavation, filling and grading of any lot other than normal maintenance shall constitute construction.

9. Convalescent or Nursing Home

A convalescent home or nursing home is a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders wherein seven (7) or more persons are cared for. Said home shall conform and qualify for license under State Law.

10. Curb Level (Grade)

Curb level or grade is the mean level of the established curb in front on the building. Where no curb has been established the City Engineer shall establish such curb level for the purpose of these regulations.

D. (“D”)

1. Day Care Facility

a. Child Care Center: A facility, other than a private residence, receiving one (1) or more pre-school or school aged children for care for a period of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child Care Center or Day Care Center includes a facility, which provides care for not less than two (2) consecutive weeks regardless of the number of hours of care per day. The facility includes childcare center, day care center, day nursery, nursery school, parent cooperative preschool, playgroup, or drop in center.

b. Family Day Care Home: A private home in which one (1) to six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

c. Group Day Care Home: A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

2. Development  
Means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
3. Developmental Disability  
A disability as defined in Section 500(h) of Act No. 258 of the Public Acts of 1974, as amended.
4. Dwelling  
A house or building, or portion thereof, which is occupied wholly as a home, residence, or sleeping place by one (1) or more human beings, either permanently or transiently, but in no case shall a trailer coach, automobile chassis, tent, or portable building be considered as a dwelling.

In case of mixed occupancy where a building is occupied wholly as the home, residence, or sleeping place by one (1) or more human beings, either permanently or transiently, but in no case shall a trailer coach, automobile chassis, tent, or portable building be considered as a dwelling.

- a. Dwelling, Multiple: A multiple dwelling is a building used for and as a residence for three (3) or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, and apartment hotels, but not including homes.
- b. Dwelling, One-Family: A detached building occupied by one (1) family and so designed and arranged as to provide living, cooking and kitchen accommodations for one (1) family only. Every one family dwelling shall have a minimum width throughout the entire length of the dwelling of twenty-four (24) feet measured between the exterior part of the walls having the greatest length.
- c. Dwelling, Two-Family: A detached two-family dwelling is that occupied by two (2) families, each provided with separate facilities for each family for living accommodations. Also known as a duplex dwelling.
- d. Dwelling Unit: A dwelling unit is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence, or sleeping place of one (1) family, either permanently or transiently, but in no case shall a travel trailer, motor home, automobile chassis, tent or other portable building be considered a dwelling in single-family, two-family or multiple-family residential areas. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a

dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.

- e. Efficiency Unit: An efficiency unit is a dwelling unit consisting of one (1) room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room providing not less than three hundred and fifty (350) square feet of floor area.

E. (“E”)

1. Erected

The word “erected” includes built, constructed, reconstructed, moved upon; and “erecting” includes any physical operations required for the building on the premises where the building is being constructed, reconstructed or moved. Excavating, filling, draining, and the like, shall be considered a part of erecting.

2. Essential Services

The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, fuel, or water transmission or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and similar equipment and accessories in connection therewith, which are reasonably necessary for the furnishing of adequate services by such utilities or municipal departments for the general health, safety or welfare. This definition shall not include buildings, sanitary landfills, land application of sewage sludge, recycling centers, refuse transfer stations or similar transfer stations. This definition shall also not include antennas which are exterior transmitting or receiving devices mounted on a tower, building or structure and used in communications which radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunication signals or other communication signals. This definition shall further not include towers which are designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes; radio and television transmission towers; microwave towers; common-carrier towers; or cellular telephone towers.

3. Excavation

Any breaking of ground, except common household gardening and ground care.

F. (“F”)

1. Family

- a. Domestic Family: One or more persons living together and related by blood, marriage, or adoption together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic housekeeping unit in the dwelling.
  - b. Functional Family: Persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single non-profit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group where the common living arrangements and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.
2. Farm  
The carrying on of any agricultural activity or the raising of livestock or small animals as a source of income.
3. Fence [amended 1-21-08]
  - a. Fence, general. A permanent partition, structure or gate erected as a dividing marker, barrier or enclosure, including but not limited to a structure erected for the purpose of restricting access to or from a lot or parcel of land, whether enclosing all or part of said lot or parcel, and which is not part of a principal building on a lot or parcel or part of an accessory structure on the lot or parcel.
  - b. Privacy fence. A fence constructed or opaque or semi-opaque material, or otherwise having such qualities as to constitute a visual barrier in order to provide privacy to a structure or property, oftentimes erected adjacent to, nearby or around such residential item as but not limited to a patio, deck, courtyard area, swimming pool or outdoor hot tub, which fence is designed to screen but not necessarily enclose the area behind it or within its confines.
4. First Story  
A first story is the lowest story of a building the ceiling of which is more than six (6) feet above the average surface elevation of the ground, or sidewalk adjacent to its exterior walls. (See figure 2)



5. Flood or Flooding  
Means a general and temporary condition of partial or complete inundation of normally dry land areas from:
    - a. The overflow of inland or tidal waters.
    - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  
  6. Floor Area
    - a. One-Family Residential: For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.
    - b. Multiple-Family Residential: For the purpose of computing the minimum allowable floor area in a multiple-family residential dwelling unit, the floor area shall be the net floor area exclusive of hallways. Net floor area is the sum of the horizontal areas of the several rooms measured from the interior faces of the walls of each room. The floor area measurement shall be exclusive of any common hallways, utility and storage areas, basements, garages, patios, porches, and balconies.
    - c. Usable (for the purpose of computing parking): That area used for or intended to be used for the sale of merchandise or services, or used to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area". Measurement of usable floor area shall be the sum of the horizontal areas of several floors of the building, measured from the interior faces of the exterior walls.
  
  7. Frontage  
The total length along which a parcel of land fronts on a street, measured along the line where the property abuts the street right-of-way.
- G. ("G")
1. Garage, Automotive Commercial  
Any premises available to the public and used solely for the storage of automobile or motor-driven vehicles, for remuneration, hire or sale, where any such vehicles or engines may also be serviced for operation, or repaired, rebuilt or reconstructed.

2. Garage, Private  
A private garage is a building or other structure designed for the housing of automobiles and having capacity for not more than three (3) automobiles.
  3. Garage, Public  
A public garage is any building or premises, other than a gasoline filling station, used for the housing or care of more than three automobiles, or where any such automobiles are equipped for operation, repaired or kept for remuneration, hire or sale.
  4. Gasoline Filling Station  
A gasoline filling station is a space, structure, building or part of a building, used for the retail sale, service or supply of motor vehicle fuels, lubricants, air, water, batteries, tires, other accessories, motor vehicle washing or lubricating; or customary facilities for the installation of such commodities in or on such motor vehicles, including special facilities for minor repair or similar servicing thereof.
  5. Grade, Natural  
The elevation(s) of the ground surface in its natural state; before man-made alterations.
  6. Greenbelt  
A greenbelt, wherever required by this Ordinance, shall be a planting strip or buffer strip, at least ten (10) feet in width, which shall consist of deciduous or evergreen trees or a mixture of both, spaced not more than thirty (30) feet apart and at least one (1) row of dense shrubs spaced not more than five (5) feet apart and which grow approximately five (5) feet wide and five (5) feet or more in height after one (1) full growing season, which shall be planted and maintained in a healthy, growing condition by the property owner.
- H. (“H”)
1. Hazardous Materials  
Any materials that have been declared to be hazardous by any agency of the State of Michigan or of the United States, including but not limited to toxic materials and metal hydroxides.
  2. Home Occupations  
A home occupation is any occupation or profession carried on by one or more members of a family, residing on the premises; provided that no commodity other than those customarily associated with the business is sold upon the premises; provided further, that no mechanical equipment is installed except such as would be normally used for purely domestic or household

purposes; provided further, that not over twenty-five (25) percent of the total actual floor area of any story is used for home occupation or professional purposes. Doctor's offices, animal hospitals, nursery schools and engine repair are examples of uses NOT considered home occupations.

- a. Class I Home Occupations: Home occupations allowed by right in all residential districts include but are not limited to: dressmaking; teacher with musical, art or dancing instruction, limited to no more than six (6) pupils at a time; author, artist, musician, clerk, computer internet marketing; accountant; or licensed day care.
- b. Class II Home Occupations: Home occupations involving: retail sales on the premises; use of an accessory structure for the occupation or for storage of goods, materials or equipment; wholesale activities; parking of one (1) commercial vehicle (semi trailers are specifically excluded) on the premises.

I. ("I")

- 1. Institutional Uses  
Churches, schools, hospitals, and other similar public or semi-public uses. This excludes nursing homes, convalescent homes, and adult foster care facilities.

J. ("J")

- 1. Junk Yard  
Any land area including buildings thereon used primarily for the outdoor collecting, storage and abandonment of waste, paper, rags, scrap metal or discarded materials which are for sale; or which is used for the outdoor collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition for the sale of parts thereof.

K. ("K")

- 1. Kennel  
Any lot or premises on which three (3) or more common house pets are kept permanently or temporarily boarded outside of the principal structure.

L. ("L")

- 1. Laboratory  
A place devoted to experimental, routine study or basic study such as testing and analytical operations, and which manufacturing of

product or products, except prototypes for testing market, is not performed.

2. Land Use Plan, Official  
The plan so designated by the Planning Commission.
3. Limited Common Elements  
A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.
4. Loading Berth  
An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking. A loading space is five hundred twenty-eight (528) square feet in area.
5. Lodging House  
A lodging house is a building or part thereof, other than a hotel, including so-called tourist homes, where lodgings are provided for hire, more or less transiently, and with or without provision for meals.
6. Lot  
A measured portion of a parcel or tract of land which is described and fixed in a recorded plat and having frontage on a public street or road either dedicated to the public or designated on a recorded subdivision. (See figure 3)
7. Lot Area  
Area of a lot bounded by lot lines.
8. Lot, Corner  
A lot whose lot lines form an interior angle of less than one hundred thirty-five (135) degrees at the intersection of two (2) street lines. A lot abutting on a curved street or streets shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than one hundred thirty-five (135) degrees.
9. Lot Coverage  
The amount of a lot, stated in terms of percentage, that is covered by all roofed buildings and/or structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and or lathe roofs, or fully roofed but shall not be deemed to include fences, walls or hedges used as fences, or swimming pools.

10. Lot, Zoning  
A single tract of land, located within a single block, which at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control.

A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located.

11. Lot Line  
A boundary line of a lot.

12. Lot Line, Front  
The exterior line or right-of-way of a road on which a lot front or abuts.

13. Lot Line, Rear  
Any lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.

14. Lot Line, Side  
Any lot line not a front or rear lot line.

15. Lot of Record  
A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

16. Lot Width  
The average distance between side lot lines measured at the building line, on a line parallel to the street, and measured at right angles to the side lot lines.

M. (“M”)

1. Mental Illness  
A substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

2. Mezzanine  
An intermediate floor in any story not to exceed one-third (1/3) of the floor area of such story.

3. Mini-Warehouses

Mini-warehouse buildings are groups of buildings in a controlled access and fenced compound that contain varying sizes of individual compartmentalized and controlled access stalls or lockers for a dead storage of customers goods or wares.

4. Mobile Home

A structure transportable in one (1) or more sections which is built on a chassis and designed to be used with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle (Act 419, Michigan P.A. of 1976). All mobile homes must conform to the U.S. Department of Housing and Urban Development's Code for mobile homes. Mobile home includes a double-wide unit.

5. Mobile Home Park

A parcel or tract of land, under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used or intended or used incidental to the occupancy of a mobile home, and which is not intended for use as recreation vehicle trailer park (Act 419, Michigan P.A. of 1976).

6. Modular

A structure which meets the requirements of the State building and construction code, and which is transported in one (1) or more sections on a removable chassis, and is designed to be used on a permanent foundation, when connected to the required utilities, such as plumbing, heating, and electrical systems.

7. Motel, or Motor Hotel

A building or a series of attached, semi detached, or detached rental units providing long term or transient lodging with motor vehicle parking in an area contiguous to the building. No kitchen or cooking facilities are to be provided without the approval of the City Commission with the exception of units for use of the manager and/or caretaker.

N. ("N")

1. New Construction

Means structures for which the "start of construction" commenced on or after the effective date of this Ordinance.

2. Non-Conforming Lot of Record – Substandard Lot)

A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the minimum area requirements of the zoning district in which it is located. (See figure 5)

3. Non-Conforming Structure

A structure, or portion thereof, lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the minimum yard setback, height and/or area requirements of the zoning district in which it is located.

4. Non-Conforming Use

A use lawfully existing in a building or on land at the effective date of this Ordinance, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located. (See figure 6)

5. Nuisance

The word “nuisance” shall be held to embrace public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, seweraged, drained, cleaned, or lighted in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this Ordinance, nuisances and all such nuisances are hereby declared illegal.

O. (“O”)

1. Off-Street Parking Lot

A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

2. Open Front Store

A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term “Open Front Store” shall not include automobile repair stations or automobile service stations.

3. Open Air Business

- a. Shall be defined to include the following:  
Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture,

playground equipment, and other home garden supplies and equipment.

- b. Sidewalk cafes.
- c. Retail sale of fruits and vegetables.
- d. Tennis courts, archery court, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses.
- e. Bicycle, utility truck or trailer, motor vehicles, boats or home equipment sale; rental or repair services.
- f. Outdoor display and sale of garages, swimming pools, motor homes, mobile homes, snowmobiles, farm implements, and similar products.

P. ("P")

1. Parcel

A tract or continuous area or acreage of land which is occupied or intended to be occupied by a building, series of buildings, accessory building(s), condominium units, or by any other use or activity permitted thereon and including open spaces and setbacks required under this Ordinance, and having its frontage on a public or private street.

2. Parking Space

An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles. Perpendicular and angle parking spaces shall have a minimum dimension of nine by eighteen (9 x 18) feet. Parallel parking shall be a minimum of eight by twenty (8 x 20) feet in dimension.

3. Physical Disability

A determinable physical characteristic of an individual which may result from disease, injury, congenital condition of birth, or functional disorder.

4. Public Utility

A public utility is any person, firm, corporation, municipal department or board duly authorized to furnish or furnishing under regulation, to the public, electricity, gas, steam, communication, transportation, drainage or water.

R. ("R")

1. Recreation Vehicles

A vehicle primarily designed as temporary living quarters or recreational, camping, or travel purposes, including a vehicle



having its own motor power or a vehicle mounted on or drawn by another vehicle. (Act 419, Michigan P.A. of 1976, as amended)

2. Repairs

Repairs are the rebuilding or renewal of an existing building for the purpose of maintaining its original type and classification.

3. Research and Development Facility

A research and development facility is any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories.

4. Restaurant, Drive-In

A drive in restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design, method of operation, or any portion of whose business includes one or both of the following characteristics:

- a. Foods, frozen desserts, or beverages are served directly to the customer in motor vehicles either by a carhop or by other means which eliminates the need for the customer to exit the motor vehicle.
- c. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is allowed, encouraged or permitted.

5. Restaurant; except Drive-In: A standard restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages (alcoholic and non-alcoholic) to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics:

1. Customers, normally provided with an individual menu, are served their foods, frozen desserts, or beverages by a restaurant employee at the same table or counter at which said items are consumed.
2. A cafeteria-type operation where foods, frozen desserts, or beverages (alcoholic or non-alcoholic) generally are consumed within the restaurant building.

6. Restaurant, Bar/Lounge/Tavern: A structure or part of a structure designed, maintained, and operated primarily for the dispensing of alcoholic beverages. The selling of food and snacks may also be permitted. If the bar/lounge/tavern is part of a larger dining

facility, it shall be defined as that part of the structure so designated and/or operated.

7. Paved Road or Street, Private

A private right-of-way reserved for the use of the occupants of the abutting structures. Said private street shall not be accepted by the City of Fennville for maintenance in any form and shall have a minimum twenty four (24) foot paved width.

8. Road or Street, Public

A public right-of-way of sixty (60) feet or more in width which has been dedicated for the purposes of providing access to abutting private lots of land including the space for pavement and sidewalks.

S. ("S")

1. Satellite Dish Antenna

A parabolic or spherical type of antenna which is used for communications with a satellite based system located in planetary orbit.

2. Setback [amended Sept 2004]

The minimum horizontal distance a foundation or wall or any portion of a building or structure is required to be located from the street right-of-way line or boundaries of a lot, parcel, or building site upon which the same is situated.

3. Shed

A shed is a lightly constructed one (1) or two (2) story building for temporary use during the erection of a permanent building; or a light one (1) story structure attached to, or auxiliary to another building and intended for storage only.

4. Shopping Center

A retail commercial establishment or a group of retail establishments which is planned, developed, owned and managed as a unit, with off-street parking provided on the property and related in its location, size and type of shops to the trade area.

5. Sign [added g-m 9-2-18]

Any building or structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising either: (a) a business, service, entertainment, activity or event which is conducted on the land upon which the building is located; (b) a product which is primarily sold, manufactured, processed or fabricated on the land upon which the building is located; (c) a second building which is located on the land upon which the first building is located; or (d) a geographical location or

place which is located on the land upon which the building is located.

- a. Business Sign: Any sign displayed for advertising (a) a business service, or entertainment conducted on the land where the building is located; or (b) products primarily sold, manufactured, processed or fabricated on such land. A business sign does not include any advertising inside a building, even if the advertising is visible from the outside through a window or door of the building.
- b. Directional Sign: Any sign erected adjacent to a street which identifies, points toward and gives the distance to any public or semi-public building, off-street parking area, recreation space, club, lodge, church, institution, business, service, entertainment, activity, or event, or any sign erected on a building identifying an entrance or exit to the building.
- c. Real Estate Sign: Any sign used only to advertise with pertinent information the sale, rental, or leasing of the premises upon which it is located.
- d. Identifying Sign: Any sign on the same premises it identifies which serves only: (1) to tell the name or use of any public or semi-public building or recreation space, club, lodge, church or institution, (2) to tell the name or address of an apartment house, hotel or motel or, (3) to inform the public as to the use of a parking lot.
- e. Name Plate: A sign affixed flat against the window, door, or wall of a building which serves solely to designate the name or the name and profession or business occupation of a person or persons occupying the building.
- f. Temporary Sign: A sign which when erected is anticipated to remain in place and to contain current information of value to the reader for a period less than thirty (30) calendar days.
- g. Electronic display: a secondary element of a ground, pole, projecting or wall sign that consists of an array of lights, which allows for messages and displays to be changed electronically.
- h. Ground sign: a freestanding sign which is placed directly on the ground surface, without use of uprights, poles or other means to elevate the sign face above the surrounding grade.
- i. Illumination: a secondary element of a wall, projecting, pole, or ground sign that uses including but not limited to, neon, argon, or similar gas or phosphorus to fill tubing made of glass or similar materials, LED, bulbs which is charged with electricity and used to create illuminated elements of a sign, including lettering, symbols, images, shapes or accents.

- j. Pole sign: a sign structurally separate and not attached to any building, which is attached directly to the ground surface in a permanent manner, or supported by one or more uprights, poles or braces attached to the ground surface in a permanent manner.
  - k. Projecting sign: a sign attached to the wall of a building, with the face of the sign which bears a message in a plane approximately perpendicular to the plane of the wall. Projecting sign includes suspended signs.
  - l. Political Sign: A temporary sign used in connection with an official City of Fennville, school district, county, state, or federal election or referendum.
  - m. Wall sign: A sign attached to the wall of a building with the face of the sign which bears a message in a plane approximately parallel to the plane of such wall and not projecting from the wall more than six inches. A sign attached to or displayed upon an awning, marquee or canopy is also considered to be a wall sign, except that a corporate logo or name not exceeding six (6) sq ft in area attached to or displayed upon such awning, marquee or canopy shall not be considered a sign.
6. Site Condominium Project  
A plan or project consisting of not less than two (2) condominium units established in conformance with the Michigan Condominium Act P.A. 59 of 1978, as amended.
7. Special Use Permit  
A use permitted only where specified facts and conditions, detailed in this Ordinance, are found to exist. The facts and conditions set forth in this Ordinance for the exception must be met without modification or alteration, unless a variance, as defined, is obtained pursuant to the provisions of Section 22.4.
8. Structure  
See “Building”, and in addition any man-made surface feature or designed earth feature (other than normal finished grading for drainage purposes), including carports, garden houses, pole barns, sheds, pergolas, decks, porches, playhouses, game courts, gas or liquid storage facility as well as a mobile home.
9. Structural Changes or Alterations  
Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof.
10. Substantial Improvement  
Means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is

started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

11. Swimming Pool

Any structure or container, either above or below grade, located either in part or wholly outside a permanently enclosed and roofed building, designed to hold water to a depth of greater than twelve (12) inches when filled to capacity, intended for immersion of the human body, whether for swimming or wading or both.

T. (“T”)

1. Temporary Building or Use

A structure or use permitted by the Building Inspector to exist during periods of construction of the main use or for special events, not to exceed six (6) months. Two (2) extension periods of six (6) months each are allowed.

2. Townhouses

A row of three (3) or more attached one-family dwellings, not more than two and one-half (2.5) stories in height and for which there is an entrance to each dwelling. Townhouse shall not be used as a synonym for the term “condominium” which refers to how property or space is owned rather than for a particular housing style.

3. Trailer

The term “trailer” includes any trailer coach, motor home, tent camper, demountable camper, utility trailer or unit designed as a vacation unit for short-term seasonal occupancy, which measures nine (9) feet or less in width, and thirty-five (35) feet or less in length, which is designed to be operated on highways, which is in good running condition and which complies with all requirements of state law for licensing of such vehicles.

4. Trunkline Highway

A roadway which provides for traffic movement between areas and across the City and provides access to abutting properties.

## City of Fennville Zoning Ordinance

### U. (“U”)

#### 1. Use

The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

### W. (“W”)

#### 1. Wall, Obscuring

A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.

### Y. (“Y”)

#### 1. Yard

A yard is an open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided herein, and on the same lot with a building. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure. (See figure 8)

#### 2. Yard, required

That portion of any lot on which the erection of a main building is prohibited.

#### 3. Yard, front

A yard on the same lot with a building between the front line of the building and the front lot line and extending from one side lot line to the other side lot line.

#### 4. Yard, rear

A yard on the same lot with a building between the rear line of the building and the rear lot line and extending from one side lot line to the other side lot line.

#### 5. Yard, side

A yard on the same lot with a building between the side lot line and the nearest side line of the building and extending from the rear yard to the front yard.

#### 6. Yard, corner lots

On corner lots the front yard requirements shall apply on the street having the mailing address. The street side yard setback on corner lots shall be twenty (20) feet. The rear yard on corner lots shall be opposite the street address front yard and the setback shall not be required to be more than twenty (20) feet.



## ARTICLE III

### ZONING DISTRICTS AND MAP

#### 3.0 DISTRICTS ESTABLISHED:

For the purpose of this Ordinance, the City of Fennville is divided into the following districts:

AG	Agriculture
R-1	One-Family Residential District
R-2	One-Family Residential District
RT	Two-Family Residential District
RM	Multiple-Family Residential District (Low Rise)
RMH	Residential Mobile Home Park
OS-1	Office Service District
B-1	Local Business District
B-2	Community Business District
CBD	Central Business District
I-1	Light Industrial District
I-2	General Industrial District
P	Parking District

#### 3.1 DISTRICT BOUNDARIES AND INCLUSION OF THE ZONING MAP BY REFERENCE

The boundaries of these districts are hereby established as shown on the Zoning Map, City of Fennville Zoning Ordinance, which accompanies this Ordinance, and which map with all notations, references, and other information shown thereon shall be as much a part of this Ordinance as if fully described herein.

#### 3.2 DISTRICT BOUNDARIES INTERPRETED

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following centerlines of streets, highways, or alleys, shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- D. Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.



- E. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- F. Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by Subsections A through D above, the Board of Appeals shall interpret the district boundaries.

### **3.3 ZONING OF ANNEXED AREAS**

Whenever any area is annexed to the City of Fennville, it shall immediately upon such annexation, be automatically classified as an R-1 District until a Zoning Map for said area has been adopted by the City Commission. The Planning Commission shall recommend the appropriate zoning districts for such area within three (3) months after the area is annexed.

### **3.4 ZONING OF VACATED AREAS**

Whenever any street, alley or public way, within the City of Fennville shall be vacated, such street, alley, or other public way or portion thereof, shall automatically be classified in the same Zoning District as the property to which it attaches.

### **3.5 DISTRICT REQUIREMENTS**

All buildings and uses in any district shall conform to the requirements of this Ordinance.

## ARTICLE IV

### GENERAL PROVISIONS

#### 4.0 EFFECTS OF ZONING

Zoning affects every structure and use. Except as specified, no building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except when in conformity with the regulations specified for the zoning district in which it is located.

In case any building or part is used, erected, altered or occupied contrary to law or to the provisions of this Ordinance, such building shall be declared a nuisance and may be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until it has been brought into conformance with this Zoning Ordinance.

If construction on a building is lawfully begun prior to adoption of this Ordinance, nothing in this Ordinance shall be deemed to require any change in the planned or designed use of any such building provided that actual construction is being diligently carried on, and that such building shall be entirely completed for its planned or designed use within one (1) year from the effective date of this Ordinance, or affecting amendment.

#### 4.1 APPLICATION OF REGULATIONS

The regulations set by this Ordinance throughout the City and within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure, land or use.

- A. All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations specified for the district in which it is located.
- B. No building or other structure shall be altered;
  - 1. To accommodate or house a greater number of persons or families than permitted by the Zoning District.
  - 2. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted.
- C. No yard or lot existing at the time of passage of this Ordinance shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

## 4.2 SCHEDULE OF DISTRICT REGULATIONS

Regulations affecting the arrangement of buildings, materials and equipment occupying such land for each of the districts are hereby established as set forth in this Ordinance.

## 4.3 GENERAL REGULATIONS

### A. Building Permit Required – Conformance to Zoning

In accordance with other City codes, ordinances and regulations duly adopted by the City Commission, and in accordance with this Ordinance, no building shall be erected, relocated or altered in its exterior or interior dimension or use, and no excavation for any building shall be begun until a building permit has been issued. With respect to this Zoning Ordinance, eligibility for a building permit shall be established upon conformance with the provisions contained herein.

### B. Certificate of Occupancy Required

No new principal building or dwelling subject to the provisions of this Ordinance shall be occupied, inhabited or used until a Certificate of Occupancy is issued by the Building Inspector.

### C. Structures

1. **Restoring Unsafe Buildings:** Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector or the Allegan County Health Department. A building or structure condemned by the Building Inspector may be restored to safe condition provided change of use or occupancy is not contemplated nor compelled by reason of such reconstruction or restoration; except that if the damage or cost of reconstruction or restoration is equal to or in excess of its State Equalized value, the structure shall be made to comply in all respects with the requirements for materials and methods of construction of structures hereafter erected.
2. **Structure to Have Access:** Every principal structure hereafter erected or moved shall be in a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing fire protection, and required off-street parking.
3. **One Single-Family Structure Per Lot:** No single family detached residential structure shall be erected upon a lot with another single family detached residential structure. In addition, every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot or a building site as herein defined.

4. Exceptions to Height Regulation: The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

D. Accessory Buildings

Accessory buildings except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

1. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to all regulations of this Ordinance applicable to main building.
2. Accessory building shall not be erected in any required yard, except a rear yard.

E. Existing Drainage Nuisances [added Sept 2004]

Any surface or roof drainage which creates a structural or health hazard, or any other nuisance to the owners or occupants of adjacent premises, or to the public by reason of discharge into, onto or across an adjacent building, premises or public thoroughfare, shall be abated by the owner of the improperly drained area. The code official shall require the drainage to be disposed of in accordance with the provisions of the plumbing code listed.

**4.4 MOTOR HOMES, CAMPERS, RECREATIONAL VEHICLE TRAILERS AND POOLS**

- A. The parking of a travel trailer, motor home or camper trailer when in use or occupied for periods exceeding twenty-four (24) hours on lands not approved for such use shall be expressly prohibited, except that the Zoning Administrator may extend temporary permits allowing the parking of said travel trailer, camper trailer or motor home in a rear yard on private property, not to exceed a period of two (2) weeks. All travel trailers, camper trailers, or motor homes parked or stored shall not be connected to sanitary facilities.
- B. The open storage of any recreational vehicle such as but not limited to: truck camper bodies, snowmobiles, boats, motor homes, camper trailers, travel trailers, all terrain vehicles, etc., shall be permitted only within the confines of the rear yard and shall further respect the requirements of this Section applicable to accessory buildings, insofar as distances from principal structure, lot lines and easements are concerned.
- C. The open storage of utility trailers, boat trailers and other similar conveyance shall be permitted only within the confines of the rear yard and shall further respect the requirements of this Section applicable to

accessory buildings, insofar as distances from principal structures, lot lines and easements are concerned.

- D. Private pools shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
1. There shall be a minimum distance of not less than ten (10) feet, between the adjoining property line, or alley right-of-way and the outside of the pool wall. The side yard setback shall apply to side yards greater than ten (10) feet.
  2. There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot.
  3. No swimming pool shall be located less than thirty-five (35) feet from any front lot line.
  4. No swimming pool shall be located in any easement.

#### **4.5 LOTS**

- A. **New Lots to be Buildable:** All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.
- B. No new lots shall be created which do not meet the minimum lot size regulations of this Ordinance.
- C. **Corner Lots:** On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate in his application for permit, which of the remaining two (2) required yards shall be the required side yard and which the required rear yard.
- D. **Existing Platted Lots:** (See Non-Comformities) The use of more than one (1) lot in common ownership where the same do not comply with ninety (90%) percent of the minimum requirements of this Ordinance shall be determined on the basis of neighborhood character. For the purpose of this Section, the Planning Commission shall use the following standards to determine neighborhood character:
1. **Two Lots:** If each of the two (2) adjacent lots in question has both frontage and area measurements that equal or exceed the individual frontage and area measurements of at least sixty (60%) percent of the total number of developed lots within four hundred (400) feet on both sides of the same street, each of said lots in question shall be construed to be in character with the neighborhood, If not, the two (2) lots shall be considered a single lot.

2. Three Lots: If each of the three (3) lots in common ownership has both frontage and area measurements that equal or exceed the individual frontage and area measurements of at least sixty (60%) percent of the total number of developed lots within four hundred (400) feet on both sides of the same street, each of said lots shall be construed to be in character with the neighborhood. If not, the three (3) lots shall be considered one (1) or two (2) lots meeting the zone district requirements.
3. Four or More Lots: If each of the four (4) or more lots in common ownership are less than the minimum requirements, they shall be re-subdivided into one (1), two (2) or three (3) lots meeting the zone district requirements.

#### **4.6 SATELLITE DISH ANTENNAS**

The following regulations have been adopted to insure that satellite dish antennas comply with the health, safety and aesthetic objectives of the City. Those objectives include, but are not limited to, the prevention of poorly constructed or poorly installed or otherwise unsafe structures; unsightly, obtrusive or unsafe structures in front yards; structures out of scale with principal buildings; structures within required side yard or rear yard setbacks obstructing open space and/or creating fire hazards; the proliferation of more satellite dish antennas than are necessary to service a lot or premises.

- A. Small satellite dish antennas are not subject to regulation by the City. A small satellite dish antenna is defined as:
  1. A satellite dish antenna that is two (2) meters or less in diameter and is located or proposed to be located in any area included in the B-1, B-2, CBD, or OS-1 Zoning Districts; or
  2. A satellite dish antenna that is one (1) meter or less in diameter and is located in any area of the City.
- B. A large satellite dish antenna is defined as any satellite dish antenna which is not a small satellite dish antenna. The following regulations shall apply to all large satellite dish antennas:
  1. Only one (1) satellite dish antenna shall be permitted per lot or premises. However, two (2) satellite dish antennas shall be permitted per lot or premises, if one (1) satellite dish antenna is for television reception only, and one (1) satellite dish antenna is for amateur (i.e. ham) radio operation only.
  2. A satellite dish antenna may not be placed in a front yard. A satellite dish antenna may be placed in a side yard, a rear yard, or on top of a building.
  3. Subject to approval of the Zoning Administrator, a satellite dish antenna shall be securely anchored through the use of a concrete

- pad or other system adequate to secure the satellite dish antenna during high winds.
4. The minimum side yard and rear yard setbacks for satellite dish antennas in various zoning districts shall be the same as those for accessory buildings in such zoning districts.
  5. A satellite dish antenna shall not exceed fifteen (15) feet in height or twelve (12) feet in diameter.
  6. No portion of a satellite dish antenna shall contain any name, message, symbol or other graphic representation visible from adjoining properties.
  7. However, one (1) sign identifying the manufacturer of the satellite dish antenna not larger than five (5) inches by twenty (20) inches shall be permitted, and no more than two (2) safety warning signs no larger than five (5) inches by twenty (20) inches shall be permitted.
  8. A satellite dish antenna shall be white or some other non-obtrusive color approved in writing by the Zoning Administrator in advance of installation.

#### **4.7 ANIMALS, BEES, LIVESTOCK & FOWL-USE, SHELTER & STORAGE**

No animals, bees, livestock or fowls, or structures for same, other than common household pets shall be permitted as an accessory for use, shelter or storage in any district other than the Agricultural District.

#### **4.8 GENERAL LIGHTING, SCREENING REQUIREMENTS, AND FENCES**

- A. Lighting  
All private lights used for the illumination of dwellings or business establishments or for the illumination of business buildings or areas surrounding them, or the illumination or display of merchandise or products of business establishments shall be completely shielded from the view of vehicular traffic using the road or roads abutting such business property. Lighting which is designed to illuminate the premises shall be installed in a manner which will not cast direct illumination on adjacent properties.
- B. Regulation of Fences [amended 9-2-18]  
All fences, including privacy fence, shall comply with this subsection. The erection, construction, or substantial rebuilding of any fence shall require a Zoning Permit from the Zoning Administrator.
  1. Substantial rebuilding of a fence is reconstruction of more than fifty percent (50 %) of the structure (as determined by either value or amount of materials), a change in the height of the structure, or a change from existing material within a 12-month period. Painting,

cleaning, replacement of like materials, or other actions commonly considered as general maintenance shall not be defined as “substantial rebuilding”.

2. Fences in Residential Districts

Fences are permitted in residentially zoned areas subject to the following conditions:

- a. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six (6) ft in height measured from the surface of the ground.
- b. In the Agricultural District, parcels having an area in excess of two (2) acres and a frontage of at least two hundred (200) feet are excluded from these regulations.
- c. Fences shall not contain barbed wire, razor wire, concertina wire, electric current or charge of electricity nor any other material installed for the purpose of causing harm, with the exception of buried invisible low voltage animal barrier fences which shall be exempt from these regulations.
- d. No fence exceeding four (4) feet in height shall be located in the required front yard, or in the front of the lot beyond the front wall of the house, whichever is greater.
  - i) Fencing shall be of picket style with open slat spacing no more than 4 inches apart.
- e. When erecting a fence next to an existing fence, the maintenance of the area between the fences shall be the responsibility of the person erecting the new fence.
- f. Any fence having an unfinished side shall be installed so that the finished side of the fence shall be facing adjacent properties or the street.

3. Fences in Non-Residential Districts

Fences are permitted in non-residentially zoned districts subject to the regulations and requirements of the applicable zoning district. All such fences shall comply with Section 18.5 and 4.8.B.4

4. Stability, Materials and Maintenance

- a. All fences shall be maintained so as not to endanger life or property. Any fence which, through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance. If an unsafe condition exists in regard to a fence, the City Clerk, Zoning Administrator, Building Code Official or Code Enforcement Officer shall serve on the owner, agent or person in control of the property upon which such fence



is located, a written notice describing the unsafe condition and specifying the required repairs or modifications to be made to render the fence safe or requiring the unsafe fence or any portion thereof to be removed, and shall provide a time limit for such repair, modification or removal.

- b. A fence shall be stable, safe and properly supported. Fence posts shall be at right angles to the horizon. Fences shall not be constructed of salvage materials.
- c. Fences shall be maintained to retain their original shape and configuration. Elements of the fence that are missing, damaged, destroyed or affected by deterioration or neglect shall either be replaced or repaired to maintain conformity with the original fence design or the fence shall be removed completely.
- d. Each fence owner shall maintain their fences in accordance with the provisions of the maintenance codes adopted by the City of Fennville and with the provisions of any site maintenance agreement entered into with the City of Fennville.
- e. Fences shall be maintained plumb and true with adequate support and in a safe and sightly manner.
- f. Section 208 of the Michigan Zoning Enabling Act authorizes the City to establish different classes of nonconforming uses with different requirements applicable to each class regarding the completion, resumption, restoration, reconstruction, extension, or substitution of such nonconforming uses or structures. Notwithstanding any provisions of this Ordinance to the contrary, including but not limited to Section 4.9 pertaining to conformities generally, there shall be a separate classification of nonconformities for fences that are nonconforming uses or structures due to their maintenance, support, or safety. Such nonconforming fences shall not be permitted to continue as nonconforming uses. The owner or a fence shall remove or repair a fence that is dangerous, dilapidated, or otherwise in violation of the Ordinance upon proper notice from the City.

C. Corner and Driveway Clearance

No fence, wall, shrubbery, sign, or other obstruction to vision above a height of twenty four (24) inches from established street grades shall be permitted within the triangular area formed:

- 1. At the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five feet from their point of intersection (See Figure 7, Exhibit A).
- 2. At the intersection of a driveway and a street where two sides of the triangle defined by measuring fifteen (15) feet in length along

the edge of the driveway and along the curb edge of the roadway line from the point of intersection and the third side is a diagonal connecting the first 2. (See Figure 7, Exhibit B)

#### **4.9 NON CONFORMITIES**

A. Non-Conforming lots, Non-Conforming uses of land, Non-Conforming structures and Non-Conforming uses of structures and premises

Intent: It is the intent of this Ordinance to permit legal non-conforming lots, structures, or uses to continue until they are removed but not to encourage their expansion.

It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, except as provided below, nor shall non-conformities be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on.

Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

B. Non-Conforming lots

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family detached dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of adoption or amendment of this Ordinance. The provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the Zoning Board of Appeals.

C. Non-Conforming uses of land

Where, on the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If such non-conforming use of land ceases for any reason for a period of more than six (6) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

D. Non-Conforming structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged, altered or rebuilt in a way which increases its non-conformity. Such structures may be

- enlarged, altered or rebuilt in a way which does not increase its non-conformity.
2. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.
3. In the event any non-conforming building or structure shall be damaged by fire, wind, or an Act of God or the public enemy, the same shall be permitted to be rebuilt provided it does not exceed the size, floor area, height and placement of the original building or structure.

E. Non-conforming uses of structures and land

If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be permitted in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the non-conforming uses and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside the building. However, with the review and approval of the Planning Commission, a parking lot serving the non-conforming use may be initially established or enlarged without violating this Ordinance. In deciding whether or not to approve the addition or enlargement of such a parking lot, the Planning Commission shall consider and uphold the requirements of Section 18.7 of this Ordinance, as well as whether the addition or enlargement of the parking lot will interfere with the use of other properties in the surrounding neighborhood for the uses for which they have been zoned. (See 18.7 for approval process)
3. If no structural alterations are made, any non-conforming use of a structure, or structure and land combination, may be changed to another non-conforming use of the same or a more restricted classification provided that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Planning Commission may require conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is

hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use. (See Article XVIII for approval process).

4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for six (6) consecutive months, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.
6. Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

F. Repairs and Maintenance

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building as it existed at the time of passage or amendment of this Ordinance.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting public safety, upon order of such official.

Further, nothing in this Ordinance shall be deemed to prevent additions or alterations to existing single-family residences or two-family residences located in other than a One-Family Residential District, a Two-Family Residential District or a RM-1 District, nor shall anything in this Ordinance be deemed to prevent additions or alterations to existing multiple family residences located in other than residential districts, provided that each and everyone of the following conditions are met:

1. That the standards and regulations applicable to the R-2 One-Family Residential District shall apply as minimum standards for all additions or alterations to single family residences; and
2. That the standards and regulations applicable to the RT Two-Family Residential District shall apply as minimum standards for all additions or alterations to two-family residences; and

3. That the standards and regulations applicable to the RM-1 Multiple-Family Residential Districts shall apply as minimum standards for all additions alterations to multi-family residences; and
4. After review of the application and public hearing or written comments, if any, the Planning Commission shall approve, approve with conditions, or deny the permit based upon the standards of the special use as set forth in the appropriate use district. The decision on a special use permit application shall be incorporated in a statement of conclusion relative to the special use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

#### **4.10 TEMPORARY PERMITS**

Temporary permits may be authorized as a Special Use by the City Commission after a hearing, for a period not to exceed one (1) year, for non-conforming uses incidental to construction projects on the same premises and including such uses as storage of building supplies and machinery, signs and the assembly of building materials. In addition, the Commission, after a hearing, may authorize a certification for a dwelling house to be temporarily used as a sales and management office for the sale of homes within a subdivision for a period of one (1) year, provided all of the following requirements are complied with:

- A. The house to be used as such office is built upon a lot approved as part of the approved subdivision and is of substantially similar design as those houses to be sold within the subdivision.
- B. No retail sales or business other than that accessory to the management and sales of the land in the subdivision owned by the applicant shall be permitted.
- C. Said dwelling house shall meet all other zoning restrictions of the zone in which it is located.

## ARTICLE V

### AG – AGRICULTURAL DISTRICT

#### 5.0 STATEMENT OF PURPOSE:

The AG - Agriculture District is intended to provide land area for horticultural activities, which are compatible with adjacent land uses in a developed environment. The District is designed to protect existing agricultural operations in the City, but not encourage new animal husbandry operations.

#### 5.1 PRINCIPAL PERMITTED USES:

In the AG - Agricultural District no building or use shall be permitted unless otherwise provided in this Ordinance, except for the following:

- A. One single-family farm or non-farm dwelling per parcel
- B. Group day care homes or family day care homes when operated in an owner occupied single-family detached dwelling in conjunction with proper licensing and in conformance with State Law and Regulations
- C. Any horticultural activities, including truck gardening, orchards, crop production, and animal 4H projects, but excluding new animal husbandry operations
- D. The sale of farm produce which has been raised on the farm from which it is to be sold
- E. Home occupations, Class I
- F. Essential services
- G. Public Schools

#### 5.2 ACCESSORY USES

Accessory buildings and uses customarily incidental to the above Principal Permitted Uses.

#### 5.3 SPECIAL USES: (Subject to Article XIX)

- A. Churches, private schools, libraries, museums and community halls.
- B. Kennels.
- C. Planned developments.
- D. Home occupations, Class II.
- E. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.

#### 5.4 SITE PLAN APPROVAL:

For uses subject to a special approval use permit, a site plan shall be submitted in accordance with Article XVIII.

**5.5 AREA, HEIGHT, BULK & PLACEMENT REQUIREMENTS:**

- A. No building or structure, nor enlargement of any building or structure, shall hereafter be constructed or placed unless the following requirements are met and maintained for any building structure or enlargement.

Front Yard	50 feet (see B below)
Side Yards	20 feet, each side
Rear Yard	40 feet
Lot Coverage	35%
Building Height	2 ½ stories or 35', whichever is less
Minimum Lot Area	5 Acres
Minimum Lot Width	330 feet
Minimum Floor Area (see C below)	One story dwelling – 1,000 square feet Two story, first floor, 750 square feet
Minimum Dwelling Width	24 feet throughout entire length

- B. The required front yard shall not be used for off-street parking, loading or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward, except for landscaping, plant materials, or vehicle access drives.
- C. The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds, or utility rooms.
- D. Accessory building shall not be erected in any required yard, except a rear yard.
- E. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than five (5) feet to any side or rear lot line.
- F. Accessory buildings may be constructed to equal the permitted maximum height of structures in said districts, subject to Planning Commission review and approval if the building exceeds one (1) story or fourteen (14) feet in height.
- G. When an accessory building is located on a corner lot, the rear yard shall be opposite the street address front yard and the accessory building shall not be located nearer than twenty (20) feet to a side yard street right-of-way line.
- H. When an accessory building is intended for other than the storage of private motor vehicles, the accessory use shall be subject to the approval of the Planning Commission. Accessory buildings with a floor area of one



hundred twenty (120) square feet or less shall not be subject to Planning Commission review.

- I. Off-street parking for one (1) and two (2) family dwellings and any driveway accessing such parking shall be paved with concrete or bituminous material in a manner which is adequate to prevent washout from obstructing storm sewers and catch basins, and in a manner which is adequate to provide safe access to the dwellings in question. The off-street parking areas for one (1) and two (2) family dwellings and for any driveways accessing them shall be a minimum of eight feet in width for their entire length and shall at a minimum extend between the public or private right of way and the required front setback line on each lot. Within a required front yard no driveway may exceed 12 feet in width for each stall facing the street within 20 feet of the required front setback line. In no case shall the driveway width exceed 26 feet in width between the right-of-way line and the curb or shoulder.

J.

## **5.6 OPEN SPACE PRESERVATION**

- A. In the AG zoned districts in the City, a land owner may choose to apply for a land division(s), plat or site condominium under the below described Open Space Preservation option. Provided that no more than the same number of dwelling units allowed on the entire land area of the tract, under the existing City zoning district regulations, State Laws and rules, may be created.
- B. To qualify for an Open Space Preservation land division, plat or site condominium option the land owner must:

- 1. Sign and record either a conservation easement, plat dedication, restrictive covenant or other legal document that runs with the land and is agreeable to the City Commission, whereby the land owner shall agree that at least 20% of the land owner's property shall remain in a perpetual undeveloped state.
- 2. If the property is not served by a municipal sewer system and municipal water system, then before any divisions are approved the land owner must obtain individual septic system permits from the County Health Department for non-mounded septic systems on each proposed lot. A State and County approved common septic system is an acceptable option with the approval of the City Commission, so long as the common septic system is not located in areas within the dedicated open space.

### **C. MINIMUM LOT REQUIREMENTS**

Under the Open Space Preservation option, the minimum lot width and depth required to meet the setback regulations of the AG zoning district plus the minimum requirements for dwellings outside of mobile home parks shall determine the minimum lot size as follows:

1. MINIMUM LOT WIDTH – shall be calculated by adding the required side yard setback (20 feet) times 2 (or total required side yards), plus the minimum dwelling width (24 feet). Total 64 feet.

FOR CORNER LOTS, MINIMUM LOT WIDTH – shall be calculated by adding one (1) minimum required side yard (20 feet), plus the minimum required front yard (50 feet), plus the minimum dwelling width (24 feet), plus the minimum building code requirement for a landing outside of an exterior door (3 feet – 2001 State Building Code). Total = 97 Feet.

2. MINIMUM LOT DEPTH – shall be calculated by adding the minimum required front yard (50 feet), plus the minimum required rear yard (40 feet), plus 2 times the minimum building code requirement for a landing outside of an exterior door ( $3 \times 2 = 6$  feet), plus a distance equal to the minimum dwelling unit area divided by the minimum dwelling width ( $1000/24 = 42$  feet). Total 138 feet.
3. FOR DOUBLE FRONTAGE LOTS, MINIMUM LOT DEPTH – shall be calculated by adding 2 times the minimum required front yard ( $50 \times 2 = 100$  feet), plus 2 times the minimum building requirement for a landing outside of an exterior door ( $3 \times 2 = 6$  feet), plus a distance equal to the minimum dwelling unit area divided by the minimum dwelling width ( $1000/24 = 42$ ). Total 148 feet.

#### D. APPLICATION

All applications for an Open Space Preservation option land division must be accompanied by a parallel plan, showing a layout of building sites which meets the ordinance requirements without applying the Open Space Preservation option. This shall be done in order to demonstrate that the number of sites shown on the application do not exceed the number which could be permitted without applying the Open Space Preservation provisions.

1. PLATS – Applicant shall inform the City Clerk in writing at the time of application for the preliminary plat if the landowner chooses to exercise the Open Space Preservation option.
2. SITE CONDOMINIUMS – Applicant shall indicate on the Zoning Application form when submitting the preliminary site plan to the City Clerk if the owner chooses to exercise the Open Space Preservation option.
3. EXEMPT DIVISIONS UNDER THE STATE LAND DIVISION ACT – Applicant shall indicate on the Land Division Application form if the owner chooses to exercise the Open Space Preservation option, when submitting the application to the City Clerk.

E. APPROVAL

1. The parallel plan and the application for a Plat, Site Condominium or exempt land division(s) shall be reviewed by the Planning Commission which shall determine the allowable density for the Open Space Preservation development and recommend approval, approval with modifications or denial to the City Commission.
2. Divisions applied for under this Section may not be approved until the City Commission, upon the review and recommendation of the City Attorney, accepts the dedication document used to perpetually preserve the preserve the open space in an undeveloped state and these documents have been filed and are recorded with the Allegan County Register of Deeds.

## ARTICLE VI

### R-1 SINGLE FAMILY RESIDENCE DISTRICT

#### 6.0 STATEMENT OF PURPOSE:

This zoning district is intended to preserve and promote the character of low-density single-family neighborhoods.

#### 6.1 PRINCIPAL PERMITTED USES:

- A. Single family detached dwellings.
- B. Group day care homes or family day care homes when operated in owner occupied single-family detached dwellings in conjunction with proper licensing and in conformance with State Law and Regulations.
- C. Publicly owned and operated parks, playfields and other recreation facilities.
- D. Home occupations, Class I.
- E. Public schools.

#### 6.2 ACCESSORY USES:

- A. Accessory buildings and uses customarily incidental to the above Principal Permitted Uses.
- B. Satellite receiving stations and dish antennas.
- C. Off-street parking.

#### 6.3 SPECIAL USES: (Subject to Article XIX)

- A. Churches, private schools, libraries, museums and community halls.
- B. Bed and breakfast facilities.
- C. Planned developments.
- D. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards, when operating requirements necessitate locating within the District to serve the immediate vicinity, and such use is not injurious to the surrounding neighborhood.
- E. Home occupation, Class II.

#### 6.4 SITE PLAN APPROVAL:

For uses subject to a special use permit, a site plan shall be submitted in accordance with Article XVII.

#### 6.5 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS

- A. No building or structure, nor enlargement of any building or structure shall hereafter be constructed or placed unless the following requirements are met and maintained for any building, structure or enlargement.

City of Fennville Zoning Ordinance

Front Yard	30 feet
Side Yards*	A total of 20 feet for both side yards with no single side yard less than 8 feet
Rear Yard	20 feet
Lot Coverage	35%
Building Height	2 ½ stories or 35', whichever is less
Minimum Lot Area	12,800 square feet
Minimum Lot Width	80 feet
Minimum Floor Area	One story dwelling – 1,000 sq. ft. 1 <sup>st</sup> floor of 2 story – 750 square feet
Minimum Dwelling Width	24 feet throughout entire length

**\*For yards on corner lots see definition 2.1, Y.6 Yard**

- B. In all residential districts, the required front yard shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
- C. The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds, or utility rooms.
- D. The required rear yards, which abut upon a street on the opposite side of the same block, upon which other residential lots front, shall not be less than the required front yard for said homes which front upon said street.
- E. Accessory building shall not be erected in any required yard, except a rear yard.
- F. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than five (5) feet to any side or rear lot line.
- G. No detached accessory building shall exceed one (1) story of fourteen (14) feet in height.
- H. When an accessory building is located on a corner lot, the rear yard shall be the yard opposite the street address front yard. In no instance shall an accessory building be located nearer than twenty (20) feet to a side yard street right-of-way line.
- I. When an accessory building is intended for other than storage of private motor vehicles, the accessory use shall be subject to the approval of the Planning Commission. Accessory buildings with a floor area of one hundred twenty (120) square feet or less shall not be subject to Planning Commission review.
- J. Off-street parking for dwellings and any driveway access for such parking shall be paved with concrete or bituminous material in a manner which is adequate to prevent washout from obstructing storm sewers and catch basins, and in a

- manner which is adequate to provide safe access to the dwelling in question.
- K. The off-street parking areas for each dwelling and for driveways accessing them shall be a minimum of eight (8) feet in width for their entire length and shall at a minimum extend between the public or private right-of-way and the required setback line for each lot.
  - L. All vehicle access drives shall be paved with bituminous or concrete, at least eight (8) feet wide, to a depth of thirty (30) feet, from the right-of-way line. No driveway may exceed the width of the garage door within the front yard.
  - M. Within a required street front yard no driveway may exceed twelve (12) feet in width for each garage parking stall facing the street within twenty (20) feet of the required street setback line. In no case shall the driveway width exceed twenty-six (26) feet between the right-of-way line and the curb or shoulder of the road.

#### **6.6 MINIMUM LANDSCAPE AND SCREENING REQUIREMENTS**

For permitted and special non-residential uses, 30% of the site under development shall be in landscaped open space. The open space shall be landscaped with one (1) evergreen tree or shrub for every 1,000 square feet or portion thereof plus one (1) small or large deciduous tree for every 1,500 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of the requirement). Twenty five (25) percent of the required open space shall be between the roadway and the building. Buildings on corner lot shall have 40% of the required open space between the building and the street.

## ARTICLE VII

### R-2 SINGLE FAMILY RESIDENCE DISTRICT

#### 7.0 STATEMENT OF PURPOSE:

This zoning district is intended to preserve and promote the character of high-density single-family neighborhoods.

#### 7.1 PRINCIPAL PERMITTED USES:

- A. Single family detached dwellings.
- B. Group day care homes or family day care homes when operated in owner occupied single-family detached dwellings in conjunction with proper licensing and in conformance with state law and regulations.
- C. Publicly owned and operated parks, playfields and other recreation facilities.
- D. Home occupations, Class I.
- E. Public Schools.

#### 7.2 ACCESSORY USES:

- A. Accessory buildings and uses customarily incidental to the above Principal Permitted Uses.
- B. Satellite receiving stations and dish antennas.
- C. Off-street parking.

#### 7.3 SPECIAL USES: (Subject to Article XIX)

- A. Churches, private schools, libraries, museums and community halls.
- B. Bed and breakfast facilities.
- C. Planned developments.
- D. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards, when operating requirements necessitate locating within the District to serve the immediate vicinity, and such use is not injurious to the surrounding neighborhood.
- E. Home occupation, Class II.

#### 7.4 SITE PLAN APPROVAL:

For uses subject to a special use permit, a site plan shall be submitted in accordance with Article XVI.

**Those portions of the R-2 district within the boundaries of the CCOD overlay district are subject to review by the Downtown Design Review Committee. Within in the CCOD, the regulations of 13-A.6 shall control over any conflicting regulations within this Article VII.**

**Existing single-family dwellings shall be exempt from Article XVI, Site Plan Review, and, the Downtown Design Review Committee requirements of 13-A.3 so long as the use of entire structure and parcel remains solely for one (1) family.**

**7.5 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

A. No building or structure, nor enlargement of any building or structure shall hereafter be constructed or placed unless the following requirements are met and maintained for any building, structure or enlargement.

Front Yard	30 feet
Side Yards*	A total of 20 feet for all side yards with no single side yard less than 8 feet
Rear Yard	20 feet
Lot Coverage	35%
Building Height	2 ½ stories or 35', whichever is less
Minimum Lot Area	7,800 square feet
Minimum Lot Width	60 feet
Minimum Floor Area	One story dwelling – 800 sq. ft. 1 <sup>st</sup> floor of 2 story – 750 square feet
Minimum Dwelling Width	24 feet throughout entire length

**\*For yards on corner lots see definition 2.1, Y.6 Yards**

- B. In all residential districts, the required front yard shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
- C. The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds, or utility rooms.
- D. The required rear yards, which abut upon a street on the opposite side of the same block, upon which other residential lots front, shall not be less than the required front yard for said homes which front upon said street.
- E. Accessory building shall not be erected in any required yard, except a rear yard.
- F. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than five (5) feet to any side or rear lot line.
- G. No detached accessory building shall exceed one (1) story of fourteen (14) feet in height.



- H. When an accessory building is located on a corner lot, the rear yard shall be the yard opposite the street address front yard. In no instance shall an accessory building be located nearer than twenty (20) feet to a side yard street right-of-way line.
- I. When an accessory building is intended for other than storage of private motor vehicles, the accessory use shall be subject to the approval of the Planning Commission. Accessory buildings with a floor area of one hundred twenty (120) square feet or less shall not be subject to Planning Commission review.
- J. Off-street parking for dwellings and any driveway access for such parking shall be paved with concrete or bituminous material in a manner which is adequate to prevent washout from obstructing storm sewers and catch basins, and in a manner which is adequate to provide safe access to the dwelling in question.
- K. The off-street parking areas for each dwelling and for driveways accessing them shall be a minimum of eight (8) feet in width for their entire length and shall at a minimum extend between the public or private right-of-way and the required setback line for each lot.
- L. All vehicle access drives shall be paved with bituminous or concrete, at least eight (8) feet wide, to a depth of thirty (30) feet, from the right-of-way line. No driveway may exceed the width of the garage door within the front yard.
- M. Within a required street front yard no driveway may exceed twelve (12) feet in width for each garage parking stall facing the street within twenty (20) feet of the required street setback line. In no case shall the driveway width exceed twenty-six (26) feet between the right-of-way line and the curb or shoulder of the road.

## **7.6 MINIMUM LANDSCAPE & SCREENING REQUIREMENTS**

For permitted and special non-residential uses, 30% of the site under development shall be in landscaped open space. The open space shall be landscaped with one (1) evergreen tree or shrub for every 1,000 square feet or portion thereof plus one (1) small or large deciduous tree for every 1,500 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of the requirement). Twenty-five (25) percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 40% of the required open space between the building and the street.

## ARTICLE VIII

### R-T SINGLE AND TWO FAMILY RESIDENTIAL DISTRICT

#### 8.0 STATEMENT OF PURPOSE:

This zoning district encompasses land primarily adjacent to the Central Business District, and some of the older localities of the City. The residential character is mainly single-family homes or earlier construction on individual lots. Some of the older stately homes are of particular vintage design.

#### 8.1 PRINCIPAL PERMITTED USES:

In the R-T Residential District, no uses shall be permitted unless otherwise specifically provided for in this Ordinance, except for the following uses:

- A. All principal permitted uses in the R-1 and R-2 Single-Family District.
- B. Two-Family dwellings.
- C. Public Schools.

#### 8.2 ACCESSORY USES:

- A. Accessory buildings and uses customarily incidental to the above Principal Permitted Uses.
- B. Off-street parking.

#### 8.3 SPECIAL USES: (Subject to Article XIX)

- A. Churches, private schools, libraries, museums and community halls.
- B. Bed and breakfast facilities.
- C. Planned developments.
- D. Municipal, State or Federal administrative or service buildings and essential services, provided they are architecturally compatible with the residential land uses in the neighborhood.
- E. Dwelling unit conversions.
- F. Publicly owned and operated parks, playfields and other recreational facilities.

#### 8.4 SITE PLAN APPROVAL

For uses subject to a special use permit, a site plan shall be submitted in accordance with Article XVIII.

#### 8.5 AREA, HEIGHT BULK AND PLACEMENT REQUIREMENTS

- A. No building or structure, nor enlargement of any building or structure, shall hereafter be constructed or placed unless the following requirements are met and maintained for any building structure or enlargement.

Front Yard	25 feet
Side Yards*	A total of 15 feet for both side yards with no single side yard less than 5 feet
Rear Yards	20 feet
Lot Coverage	35%
Building Height	2 ½ stories or 35', whichever is less
Minimum Lot Area	7,800 square feet for single family dwellings 10,000 square feet for duplexes
Minimum Lot Width	60 feet
Minimum Floor Area (see C below)	500 square feet per dwelling unit
Minimum Dwelling Width	24 feet throughout entire length

**\*For yards on corner lots see definition 2.1,Y.6 Yard**

- B. In all residential districts, the required front yard shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
- C. The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds, or utility rooms.
- D. In the R-T District, the required rear yards, which abut upon a street on the opposite side of the same block, upon which other residential lots front, shall not be less than the required front yard for said homes which front upon said street.
- E. Accessory building shall not be erected in any required yard, except a rear yard.
- F. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than five (5) feet to any side or rear lot line.
- G. No detached accessory building shall exceed one (1) story of fourteen (14) feet in height.
- H. When an accessory building is located on a corner lot, the rear yard shall be the yard opposite the street address front yard. In no instance shall an accessory building be located nearer than twenty (20) feet to a side yard street right-of-way line.
- I. When an accessory building is intended for other than storage of private motor vehicles, the accessory use shall be subject to the approval of the Planning Commission. Accessory buildings with a floor area of one hundred twenty (120) square feet or less shall not be subject to Planning Commission review.
- J. Off-street parking for one (1) and two (2) family dwellings and any driveway accessing such parking shall be paved with concrete or bituminous material in a manner which is adequate to prevent washout

from obstructing storm sewers and catch basins, and in a manner which is adequate to provide safe access to the dwellings in question.

- K. The off-street parking areas for one (1) and two (2) family dwellings and for any driveways accessing them shall be a minimum of eight (8) feet in width for their entire length and shall at a minimum extend between the public or private right-of-way and the required front setback line on each lot.
- L. All vehicle access drives shall be paved with bituminous or concrete, at least eight (8) feet wide, to a depth of thirty (30) feet, from the right-of-way line. No driveway may exceed the width of the garage door within the front yard.
- M. Within a required street front/side yard no driveway may exceed 12 feet in width for each garage parking stall facing the street within twenty (20) feet of the required front setback line. In no case shall the driveway width exceed twenty-six (26) feet in width between the right-of-way line and the curb or road shoulder.

#### **8.6 MINIMUM LANDSCAPE AND SCREENING REQUIREMENTS**

For permitted and special non-residential uses, 30% of the site under development shall be in landscaped open space. The open space shall be landscaped with one (1) evergreen tree or shrub for every 1,000 square feet or portion thereof plus one (1) small or large deciduous tree for every 1,500 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of the requirement). Twenty five (25) percent of the required open space shall be between the roadway and the building. Buildings on corner lot shall have 40% of the required open space between the building and the street.

**ARTICLE IX**  
**RM – MULTIPLE FAMILY RESIDENTIAL DISTRICT**

**9.0 STATEMENT OF PURPOSE**

The RM District is intended for multiple family residential uses. This district is characterized by the townhouses, row houses, garden apartments and zero lot line developments, specialized or group housing for seven or more unrelated individuals. Senior citizen housing is also permitted by special use permit.

**9.1 PRINCIPAL PERMITTED USES**

In the RM District, no use shall be permitted unless otherwise provided in this Ordinance, except for the following:

- A. One two and three family dwellings.
- B. Group day care homes or family day care homes when operated in an owner occupied single-family detached dwelling in conjunction with proper licensing and in conformance with State Law and Regulations.
- C. Apartments.
- D. Townhouses.
- E. State Licensed Adult foster care facilities for seven (7) or more residents.
- F. Public Schools.

**9.2 ACCESSORY USES**

- A. Accessory buildings and uses customarily incidental to the Above Principal Permitted Uses.
- B. Off-street parking and loading.

**9.3 SPECIAL USES (Subject to Article XIX)**

- A. All uses subject to Special Use Permit in the R-T District.
- B. Private clubs and lodges.
- C. Convalescent and nursing homes licensed under Act 368 of 1978 Public Health Code, as amended.
- D. Unregulated senior housing.
- E. Churches, private schools, libraries, museums and community halls.

**9.4 SITE PLAN APPROVAL**

For permitted uses, (except one and two family dwellings) and uses subject to a Special Use Permit, a site plan shall be submitted in accordance with Article XVIII.

**9.5 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

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- A. No building or structure, nor enlargement of any building or structure shall hereafter be constructed or placed unless the following requirements are met and maintained for any building, structure or enlargement.

Front Yard	25 feet
Side Yards	10 feet for one and two-family dwellings 20 feet for apartments and townhouses 25 feet for housing for the elderly
Rear Yards (See D below)	20 feet for one and two-family dwellings 30 feet for apartments and townhouses 40 feet for housing for the elderly
Lot Coverage	25% maximum
Building Height	2 ½ stories or 35', whichever is less, for all uses except housing for the elderly which may be 60' or 4 stories
Minimum Lot Area	7,800 square feet for single family dwellings 10,000 square feet for two-family dwellings 43,560 square feet for apartments (3 or more dwelling units) 87,120 square feet for townhouses and housing for the elderly
Minimum Lot Width	60 feet for lots under one (1) acre, 120 feet for lots over one (1) acre
Minimum Floor Area (per dwelling unit)*	500 square feet per dwelling unit for single family and two-family dwellings

*	Apartments	Townhouses	Housing for the elderly
Efficiency	480 square feet	600 square feet	480 square feet
One Bedroom	600 square feet	750 square feet	550 square feet
Two Bedroom	750 square feet	900 square feet	700 square feet
Three Bedroom	900 square feet	1200 square feet	850 square feet
Four Bedroom	1050 square feet	1500 square feet	1000 square feet

- B. In all residential districts, the required front yard shall not be used for off-street parking, loading or unloading, and remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.

- C. The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds, or utility rooms.
- D. In the RM District, the required rear yards, which abut upon a street on the opposite side of the same block, upon which other residential lots front, shall not be less than the required front yard for said homes which front upon said street.
- E. Accessory building shall not be erected in any required yard except a rear yard.
- F. No detached accessory building shall be located closer than ten (10) feet to any single or two-family dwelling structure, nor shall it be located closer than five (5) feet to any side or rear lot line.
- G. No detached accessory building shall exceed one (1) story of fourteen (14) feet in height.
- H. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot in rear of such corner lot. In no instance shall an accessory building be located nearer than twenty (20) feet to a street right-of-way line.
- I. When an accessory building is intended for other than the storage of private motor vehicles, the accessory use shall be subject to the approval of the Planning Commission. Accessory buildings with a floor area of one hundred twenty (120) square feet or less shall not be subject to Planning Commission review.
- J. Off-street parking for one (1) and two (2) family dwellings and any driveway accessing such parking shall be paved with concrete or bituminous material in a manner which is adequate to prevent washout from obstructing storm sewers and catch basins, and in a manner which is adequate to provide safe access to the dwellings in question.
- K. The off-street parking areas for one (1) and two family dwellings and for any driveways accessing them shall be a minimum of eight (8) feet in width for their entire length and shall at a minimum extend between the public or private right-of-way and the required front setback line on each lot.
- L. All vehicle access drives shall be paved with bituminous or concrete, at least eight (8) feet wide, to a depth of thirty (30) feet, from the right-of-way line. No driveway may exceed the width of the garage door within the front yard.
- M. Within a required street front/side yard no driveway may exceed twelve (12) feet in width for each garage parking stall facing a street within twenty (20) feet of the required front setback line. In no case shall a driveway width exceed twenty-six (26) feet in width between the right-of-way line and the curb or road shoulder.

## **9.6 MINIMUM LANDSCAPE & SCREENING REQUIREMENTS**

- A. For the Multiple-Family Residential District, 25% of the site shall be in landscaped open space. The open space shall be landscaped with one (1) evergreen shrub for every 1,000 square feet or portion thereof, plus one (1) small or large deciduous tree for every 2,000 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of the requirement). Ground cover or lawn is required in all landscaped areas.
- B. For permitted and special non-residential uses, 30% of the site under development shall be in landscaped open space. The open space shall be landscaped with one (1) evergreen tree or shrub for every 1,000 square feet or portion thereof plus one (1) small or large deciduous tree for every 1,500 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of this requirement). Twenty-five (25) percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 40% of the required open space between the building and the street.



## **ARTICLE X**

### **RMH – RESIDENTIAL MOBILE HOME DISTRICT**

#### **10.0 STATEMENT OF PURPOSE**

The RMH District is designed for those who prefer mobile home living. Although a single-family unit, mobile home developments typically have a higher density impact than conventional single-family developments. In order to not adversely impact other areas of the City, certain land areas are hereby recognized as appropriate for continued mobile home use provided that proper site design standards and requirements are met.

#### **10.1 PRINCIPAL PERMITTED USES**

In the RMH District no use shall be permitted unless otherwise provided in this ordinance, except for the following:

- A. Mobile home parks.
- B. Publicly owned and operated parks, playfields and other recreation facilities.
- C. Home occupations, Class I.

#### **10.2 ACCESSORY USES**

- A. Accessory buildings and uses customarily incidental to the above Principal Permitted Uses.
- B. Off-street parking.

#### **10.3 SPECIAL USES (Subject to Article XIX)**

- A. Churches, schools, libraries, museums and community halls.
- B. Home occupations, Class II.

#### **10.4 STANDARDS AND REQUIREMENTS FOR MOBILE HOME PARKS**

Mobile home parks shall conform to the requirements as promulgated by the Michigan Mobile Home Commission Rules, as amended.

#### **10.5 SITE PLAN APPROVAL**

For special uses, a site plan shall be submitted in accordance with Article XVIII. Mobile home parks are only subject to the preliminary site plan provisions of Article XVIII.

**10.6 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

Exterior Front Yard, for the land use	35 feet, 50 feet for mobile home parks
Exterior Side Yard, for the land use	10 feet
Exterior Rear Yard, for the land use	20 feet, 10 feet for mobile home parks
Building Height	2 ½ Stories or 35', whichever is less
Minimum Tract Area	10 Acres
Minimum Tract Width	150 feet

## ARTICLE XI

### B-1 LOCAL BUSINESS DISTRICT

#### 11.0 STATEMENT OF PURPOSE

The B-1 Local Business District is intended to accommodate various types of office, retail, and service establishments. These uses can serve as a transitional use between more intensive land uses such as highway commercial uses or major highways and less intensive land uses such as single and two family districts. This district is also intended to allow for uses, which do not generate large volumes of traffic or require extended hours of operation. **Those portions of the B-1 district within the boundaries of the CCOD overlay district are subject to review by the Downtown Design Review Committee. Within in the CCOD, the regulations of 13-A.6 shall control over any conflicting regulations within this Article XI.**

#### 11.1 PRINCIPAL PERMITTED USES

In the B-1 District, no uses shall be permitted unless otherwise provided for in this Ordinance, except the following:

- A. Office buildings and uses when goods or wares are not commercially created on the premises.
- B. Insurance offices, brokerage houses, and real estate offices.
- C. Business and private schools, including nursery schools, day nurseries and child care centers operated within an enclosed building.
- D. Photographic studios.
- E. Funeral homes and mortuaries.
- F. Financial institutions, banks, credit unions.
- G. Laundromats.
- H. Medical or dental clinics
- I. Grocery stores, fruit and flower markets, and bakeries.
- J. Restaurants and taverns, not including drive-in restaurants.
- K. Watch, television and shoe repair shops.
- L. Barber and beauty shops.
- M. Sign shops.
- N. Mixed uses (100% of the first floor area is given to retail, non-residential use) (i.e. permitted commercial and residential uses combined in one building).
- O. Art galleries and museums.
- P. Public Utilities.
- Q. Billboards. (Subject to 11.8 below)

**11.2 ACCESSORY USES**

- A. Accessory buildings and uses customarily incidental to the above permitted principal uses.
- B. Off-street parking.
- C. Outdoor trash containers or dumpsters.

**11.3 SPECIAL USES: (Subject to Article XIX)**

- A. Gasoline service stations and filling stations.
- B. Fraternal organizations, service clubs, and lodge halls.
- C. Office developments. (Two or more structures)
- D. Car wash establishments but only when used in conjunction with a gasoline service station or filling station.

**11.4 SITE PLAN APPROVAL**

For all permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with Article XVIII.

**Those portions of the B-1 district within the boundaries of the CCOD overlay district are subject to review by the Downtown Design Review Committee. Within in the CCOD, the regulations of 13-A.6 shall control over any conflicting regulations within this Article XI.**

**Within the CCOD, existing single-family dwellings shall be exempt from the Downtown Design Review Committee requirements of 13-A.3 so long as the use of entire structure and parcel remains solely for one (1) family.**

**11.5 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

- A. No building or structure, nor enlargement of any building or structure, shall hereafter be constructed or placed unless the following requirements are met and maintained for any building, structure or enlargement.

Front Yard  <b>Within the CCOD</b>	0 feet Minimum 0 feet, Maximum 0 feet except as provided in 13-A.5
Side Yards  <b>Within the CCOD</b>	Side abutting a residential district - 5 feet for buildings and parking and loading areas. Side abutting all other districts - 0 feet.  One side: Minimum 0 feet, or, Minimum 10 feet & Maximum 20 feet Remaining side dependent upon the minimum requested by the local fire inspector.
Rear Yards	Where rear abuts a residential district and the distances are not separated by an alley or street - 10 feet.

Lot Coverage	100%
<b>Within the CCOD</b>	Minimum 50%, Maximum 90% except as provided in 13-A.5
Building Height	2 ½ stories or 35', whichever is less
<b>Within the CCOD</b>	Minimum 15' or 1 ½ stories whichever is less; Maximum 35' or 3 stories whichever is greater
Minimum Lot Area	5,000 square feet
Minimum Lot Width	66 feet
Minimum Floor Area	For mixed uses, second floor dwelling unit - 500 square feet.  All other uses - None
Maximum Floor Area	Maximum gross floor area – 22,000 square feet, except as provided in 13-A.5
<b>Within the CCOD only</b>	Maximum ground floor area – 6,000 square feet.

**11.6 OFF-STREET PARKING & LOADING**

- A. Off-Street parking shall be provided in accordance with Section 18.7
- B. Loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per one (1) front foot of building width. Where an alley or street abuts the rear of the property, the rear building setback and loading requirements may be computed from the center of the street or alley. The City Commission may waive this requirement in individual cases where this requirement is shown to be excessive or unnecessary.

**11.7 MINIMUM LANDSCAPE & SCREENING REQUIREMENTS**

For permitted and special uses 15% of the site shall be in landscaped open space with one (1) evergreen tree or shrub for every 1,000 square feet or portion thereof plus one (1) small or large deciduous tree for every 2,000 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of the requirement). Thirty (30) percent of the required open space shall be between the roadway and the building.

Buildings on corner lots shall have 60% of the required open space between the building and the roadway. Whenever feasible, a portion of the landscaping shall be placed adjacent to the building(s).

### **11.8 REGULATION OF BILLBOARDS**

Billboards may be erected adjacent to M-89, provided that they must meet all of the following conditions. For purposes of these conditions, double-faced billboards (i.e. structures with back-to-back faces containing or able to contain advertising) and V-shaped billboards having only one face visible to traffic proceeding from any given direction on a Street shall be considered as one (1) billboard. Otherwise, billboards having more than one (1) face, including billboards with tandem (side-by-side) or stacked (one-above-the-other) faces, shall be considered as multiple billboards and shall be prohibited in accordance with the minimum spacing requirements set forth below. A billboards surface display area containing or able to contain advertising shall be considered to be the billboards face(s).

- A. Not more than three (3) billboards may be located per linear mile of Street, regardless of the fact that such billboards may be located on different sides of the Street. The linear mile measurement shall not be limited to the City's boundaries if the particular Street extends beyond such boundaries.
- B. No billboard may be located within one thousand (1,000) feet of another billboard. The one thousand (1,000) feet measurement shall not be limited to the City's boundaries.
- C. No billboard may be located within two hundred (200) feet of any residential zoning district, of a pre-existing dwelling, of a pre-existing church or of a pre-existing school. If the billboard is illuminated, the required distance shall be increased to three hundred (300) feet.
- D. No billboard may be located closer than seventy-five (75) feet from a property line adjoining a street. No billboard may be located closer than ten (10) feet from any other property line of the lot on which the billboard is located.
- E. A billboards face may not exceed three hundred (300) square feet. Double-faced billboards and V-shaped billboards may have two (2) faces, but neither one may exceed three hundred (300) square feet.
- F. A billboards height may not exceed twenty (20) feet above the grade of the ground upon which the billboard sits, or above the grade of the abutting street, whichever is higher.
- G. No billboard may be placed on top of, cantilevered from or otherwise suspended above the roof of any building.
- H. A billboard may be illuminated, but only if such illumination is concentrated on the billboards face(s) and is located so as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles, or any adjacent lot. No rotating or oscillating beam, beacon, flashing illumination or intermittent lights may obscure or interfere with the effectiveness of an official traffic sign, signal or device.
- I. A billboard shall be securely anchored and otherwise adequately constructed in order to withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard shall be adequately maintained

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to assure its continued structural soundness and the continued readability of its message.

- J. A billboard adjacent to the interstate highway, freeway and primary highway systems of the State of Michigan, as such terms are defined in the Highway Advertising Act of 1972 (Michigan Public Act 106 of 1972, as amended), shall comply with all of the above requirements as well as the applicable regulations promulgated hereunder, as such provision and/or regulations may be amended from time to time.

## ARTICLE XII

### B-2 GENERAL BUSINESS DISTRICT

#### 12.0 STATEMENT OF PURPOSE

The B-2 General Business District is intended to serve the highway and comparison-shopping needs of the residents of the greater City of Fennville area as well as the passing motorist. It is characterized by businesses with large lot requirements, extended hours and major thoroughfare locations. **Those portions of the B-2 district within the boundaries of the CCOD overlay district are subject to review by the Downtown Design Review Committee. Within in the CCOD, the regulations of 13-A.6 shall control over any conflicting regulations within this Article XII.**

#### 12.1 PRINCIPAL PERMITTED USES

In the B-2 Business District, no uses shall be permitted unless otherwise provided for in this Ordinance, except the following:

- A. All principal permitted uses in the B-1 Local Business District.
- B. Retail shops.
- C. Personal service establishments, including health spas.
- D. Restaurants and taverns, not including drive-in restaurants. (See special uses)
- E. Bakeries.
- F. Dry cleaning and laundry establishments, employing not more than five persons.
- G. Printing, publishing, photography or other reproduction businesses.
- H. Custom craft shops.
- I. Combined retail-wholesale business when conducted entirely within a building.
- J. Publicly owned buildings, including government facilities.
- K. Lumber yards.
- L. Sales of new and used cars, boats, campers and other similar vehicles.
- M. Medical or dental clinics.
- N. Veterinary hospitals and clinics.
- O. Mini warehousing or storage facilities.
- P. Billboards. (Subject to 12.7 below)

#### 12.2 ACCESSORY USES

- A. Accessory buildings and uses customarily incidental to the above principal permitted uses.
- B. Off-street parking.



**12.3 SPECIAL USES: (Subject to Article XIX)**

- A. Commercial and service establishments of an “Adult” nature.
- B. Drive-in Restaurants.
- C. Car wash establishments.
- D. Open-air businesses.
- E. Bowling alleys, skating rinks and indoor recreation facilities.
- F. Gasoline Service stations.
- G. Office developments (two or more structures).
- H. Housing for the elderly.
- I. Hotels, motels and motor courts.

**12.4 SITE PLAN REVIEW**

For all permitted uses, accessory uses and uses subject to a special use permit, a site plan shall be submitted in accordance with Article XVIII.

**Those portions of the B-2 district within the boundaries of the CCOD overlay district are subject to review by the Downtown Design Review Committee. Within in the CCOD, the regulations of 13-A.6 shall control over any conflicting regulations within this Article XII.**

**For parcels within the CCOD, existing single-family dwellings shall be exempt from Article XVIII Site Plan Review, and, the Downtown Design Review Committee requirements of 13-A.3 so long as the use of the entire structure and parcel remains solely for one (1) family.**

**12.5 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

No building or structure, nor enlargement of any building or structure shall hereafter be constructed or placed unless the following requirements are met and maintained for any building, structure or enlargement.

Front Yard	0 feet
<b>Within the CCOD</b>	Minimum 0 feet, Maximum 0 feet except as provided in 13-A.5
Side Yards	Side abutting a residential district - 5 feet for buildings and parking and loading areas. Side abutting all other districts - 0 feet.
<b>Within the CCOD</b>	One side: Minimum 0 feet, or Minimum 10 feet & Maximum 20 feet Remaining side dependent upon the minimum requested by the local fire inspector.
Rear Yards	Where rear abuts a residential district and the distances are not separated by an alley or street - 10 feet.
Lot Coverage	100%
<b>Within the CCOD (see 13-A.5)</b>	Minimum 50% (except City owned parks), Maximum 90% except as provided in 13-A.5
Building Height	2 ½ stories or 35', whichever is less
<b>Within the CCOD</b>	Minimum 15' or 1 ½ stories whichever is less; Maximum 35' or 3 stories whichever is greater
Minimum Lot Area	10,000 square feet

Minimum Lot Width	80 feet
Minimum Floor Area	For mixed uses, second floor dwelling unit - 500 square feet. For motels & hotels – 250 square feet per unit All other uses - None
<b>Within the CCOD Building Area</b>	Maximum gross floor area – 22,000 square feet, except as provided in 13-A.5 Maximum ground floor area – 6,000 square feet.

**12.6 OFF-STREET PARKING & LOADING**

- A. Off-street parking shall be provided in accordance with Section 18.7.
- B. Loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per one (1) front foot of building width. Where an alley or street abuts the rear of the property, the rear building setback and loading requirements may be computed from the center of the street or alley. The City Commission may waive this requirement in individual cases where this requirement is shown to be excessive or unnecessary

**12.7 MINIMUM LANDSCAPE & SCREENING REQUIREMENTS**

For permitted and special uses 15% of the site shall be in landscaped open space with one (1) evergreen tree or shrub for every 1,000 square feet or portion thereof plus one (1) small or large deciduous tree for every 2,000 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of the requirement). Thirty (30) percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 60% of the required open space between the building and the roadway. Whenever feasible, a portion of the landscaping shall be placed adjacent to the building(s).

**12.6 REGULATION OF BILLBOARDS**

Billboards may be erected adjacent to M-89, provided that they must meet all of the following conditions. For purposes of these conditions, double-faced billboards (i.e. structures with back-to-back faces containing or able to contain advertising) and V-shaped billboards having only one face visible to traffic proceeding from any given direction on a Street shall be considered as one (1) billboard. Otherwise, billboards having more than one (1) face, including billboards with tandem (side-by-side) or stacked (one-above-the-other) faces, shall be considered as multiple billboards and shall be prohibited in accordance with the minimum spacing requirements set forth below. A billboards surface display area containing or able to contain advertising shall be considered to be the billboards face(s).

- A. Not more than three (3) billboards may be located per linear mile of Street, regardless of the fact that such billboards may be located on different sides of the Street. The linear mile measurement shall not be limited to the City’s boundaries if the particular Street extends beyond such boundaries.

- B. No billboard may be located within one thousand (1,000) feet of another billboard. The one thousand (1,000) feet measurement shall not be limited to the City's boundaries.
- C. No billboard may be located within two hundred (200) feet of any residential zoning district, of a pre-existing dwelling, of a pre-existing church or of a pre-existing school. If the billboard is illuminated, the required distance shall be increased to three hundred (300) feet.
- D. No billboard may be located closer than seventy-five (75) feet from a property line adjoining a street. No billboard may be located closer than ten (10) feet from any other property line of the lot on which the billboard is located.
- E. A billboards face may not exceed three hundred (300) square feet. Double-faced billboards and V-shaped billboards may have two (2) faces, but neither one may exceed three hundred (300) square feet.
- F. A billboards height may not exceed twenty (20) feet above the grade of the ground upon which the billboard sits, or above the grade of the abutting street, whichever is higher.
- G. No billboard may be placed on top of, cantilevered from or otherwise suspended above the roof of any building.
- H. A billboard may be illuminated, but only if such illumination is concentrated on the billboards face(s) and is located so as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles, or any adjacent lot. No rotating or oscillating beam, beacon, flashing illumination or intermittent lights may obscure or interfere with the effectiveness of an official traffic sign, signal or device.
- I. A billboard shall be securely anchored and otherwise adequately constructed in order to withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard shall be adequately maintained to assure its continued structural soundness and the continued readability of its message.
- J. A billboard adjacent to the interstate highway, freeway and primary highway systems of the State of Michigan, as such terms are defined in the Highway Advertising Act of 1972 (Michigan Public Act 106 of 1972, as amended), shall comply with all of the above requirements as well as the applicable regulations promulgated thereunder, as such provision and/or regulations may be amended from time to time.

## ARTICLE XIII

### CBD – CENTRAL BUSINESS DISTRICT

#### 13.0 STATEMENT OF PURPOSE

The CBD Central Business District is intended to permit a variety of commercial, administrative, financial, civic, cultural, residential, entertainment and recreational uses in an effort to provide the harmonious mix of activities necessary to further enhance the Central Business District as a commercial service center.

#### 13.1 PRINCIPAL PERMITTED USES

In the CBD Central Business District, no uses shall be permitted unless otherwise provided in this Ordinance, except the following:

- A. Antique stores
- B. Appliance repair and sales
- C. Bakery or Confectionery
- D. Banks (excluding drive-through)
- E. Book store, music store or video shop
- F. Coffee shop, delicatessen or café
- G. Convenience store, excluding gasoline sales
- H. Drug store, gift shop, grocery store
- I. Floral shop
- J. Galleries, art, craft and hobby supply stores
- K. Hardware store
- L. Home occupation
- M. Personal services
- N. Places of public assembly
- O. Professional offices including finance, insurance, real estate, engineering, accounting, medical and dental either: [amended 11-19-10]
  - 1. On upper floors of Main Street buildings
  - 2. On street level floors but shall not occupy any space, unit, apartment or room within 75 feet of the Main Street right-of-way line.
  - 3. In street level floor storefronts facing and fronting on any side street so long as the space, unit, apartment or room and the entryway to such office is not within 75 feet of the Main Street right-of-way line.
- P. Residences on the upper floors of Main Street buildings
- Q. Restaurants and Taverns including sidewalk and outdoor cafes, but not including drive-through
- R. Seasonal merchandise including outside sales
- S. Studios for performing and graphic arts
- T. Theaters, cinemas and concert halls
- U. Wearing apparel, accessory, jewelry or shoe store

- V. Any retail business whose principal activity is the sale or rental of merchandise within a completely enclosed building.
- W. Personal service establishments, including health spas, gymnasiums, barber and beauty shops.
- X. Financial institutions, including drive-thru facilities.
- Y. Museums and art galleries
- Z. Custom craft shops
- AA. Combined retail-wholesale business when conducted entirely within a building.
- BB. Publicly owned buildings including government facilities.
- CC. Mixed use establishments, i.e. commercial and residential uses combined in one structure provided the dwelling unit(s) are confined to the second story of the structure.
- DD. Other uses which are similar to the above and subject to the following restrictions:
  - 1. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.
  - 2. All business servicing or processing except for off-street parking or loading, shall be conducted within completely enclosed buildings.
  - 3. Storage of commodities shall be within building and shall not be visible to the public from a street or thoroughfare.
- EE. Billboards (Subject to 13.7 below)

**13.2 SPECIAL USES (Subject to Article XIX)**

- A. Bed & Breakfast
- B. Car wash
- C. Convenience store with gasoline
- D. Day care center or Child Care Center
- E. Educational facilities
- F. Financial institutions with drive-through
- G. Hotels and Motels
- H. Automotive repair
- I. Business and office machine repair facilities
- J. Reserve [removed 11-19-10]

**13.3 ACCESSORY USES**

- A. Accessory buildings and uses customarily incidental to the above Principal Permitted Uses.
- B. Off-street parking lots and structures.

**13.4 SITE PLAN APPROVAL**

For permitted uses, accessory uses and special uses a site plan shall be submitted in accordance with Article XVIII, except that uses in the CBD Central Business District are exempt from the required parking space provisions of Article XVIII.

**All portions of the CBD district are within the boundaries of the CCOD overlay district and are subject to review by the Downtown Design Review Committee. Within in the CCOD, the regulations of 13-A.6 shall control over any conflicting regulations within this Article XIII.**

**Existing single-family dwellings shall be exempt from Article XVIII Site Plan Review, and, the Downtown Design Review Committee requirements of 13-A.3 so long as the use of the entire structure and parcel remains solely for one (1) family.**

**13.5 AREA, HEIGHT BULK AND PLACEMENT REQUIREMENTS**

Front Yard	Minimum 0 feet Maximum 0 feet except as provided for in 13-A.5
Side Yards	Side abutting a residential district – 5 feet for buildings parking and loading areas. One side – 0 feet, or minimum 10 feet & maximum 20 feet Remaining side dependent upon the minimum requested by the local fire inspector.
Rear Yards	Where rear abuts a residential district and the districts are not separated by an alley or street – 10 feet.
Lot Coverage (includes buildings, structures, parking areas, sidewalks, plazas, patios, driveways and other man-made impervious surfaces).	-Minimum 50% (except City owned parks) -Maximum 90% *
Building Height	-Maximum 3 stories or 35 feet, whichever is greater -Minimum 1 ½ stories, or 15 feet, whichever is less.
Minimum Lot Area	None
Minimum Lot Width	None
Minimum Floor Area	For mixed uses, second floor dwelling unit – 500 square feet. All other uses – None
Building Area	Gross Floor Area -Maximum – 22,000 square feet * -Maximum Ground Floor area 6,000 square feet

\* Except as approved by the Downtown Design Review Committee – see Article XIII-A (13-A)

**13.6 SIGN STANDARDS [amended 9-2-18]**

A. In lieu of the sign standards of ARTICLE XVIII Section 18.8 (or as excepted below), the following standards shall apply:

1. Signs on the ground shall be setback two (2) feet from the right-of-way and side property line. If the sign will be located adjacent to a residential use, the sign shall be no less than ten (10) feet from side property line.

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2. Pole signs are prohibited except on properties with a gas station as the principle use.
3. All signs shall be designed to match the character and scale of surrounding uses.
4. Sign illumination regulations
  - a. Internal illumination shall be shielded in such a manner that it is not visible from the street or any adjoining property, and the light source shall be of a warm, non-glare type
  - b. Lumen not to exceed 270 per square foot.
  - c. Internal illumination shall be static and stationary in nature. There shall be no movement appearance of movement, intermittent illumination, blinking at any interval, or changing color.
  - d. External direct lighting shall be directed to not cause glare onto traffic or adjoining properties.
  - e. Electronic display signs are prohibited.
5. Multi-family uses located on upper floors may place signage on the building façade or windows only.

B. Dimension & Location Requirements.

All signs shall have areas not exceeding the following dimensions. Each business may use any combination of the following dimensions not to exceed 40 square feet (see 18.8D area measurement) for all signs for that business:

Sign Type	Maximum Area	Minimum Height Above Sidewalk	Location Requirement
Window	25% of window area where displayed	Not applicable	Ground floor windows only Except for 2 <sup>nd</sup> /3 <sup>rd</sup> floor apartments
Marquis	40 sq. ft.	8 feet	Maximum 12 feet over sidewalk Shall not extend beyond curb
Canopy/Awni ng	30% of the canopy	8 feet	Maximum 8 feet over sidewalk
Wall or mural	25% of ground floor wall area.	Not applicable	Not permitted above the window sill of second floor windows.
Projecting	40 sq. ft.	8 feet	Maximum extension of 8 feet over sidewalk
Suspended	6 sq. ft.	8 feet	Maximum extension of 8 feet over sidewalk
Ground	40 sq. ft.	Not applicable	See 13.6 A.1
Pole	See Section 18.8	See Sec. 18.8	Prohibited except for gas stations

A. Temporary Signs.

1. Sidewalk signs not to exceed eight (8) sq. ft. per side may be placed within two (2) feet of the building line on the sidewalk, provided a Sidewalk Use Permit shall be obtained under Section 2 of Chapter 50 of the City of Fennville General Law.
2. Real estate signs; the total area of a real estate sign advertising one (1) lot shall not exceed twelve (12) square feet in area. Such signs shall be removed within fourteen (14) days after the lot or lots in question are no longer for sale, rent or lease.
3. Signs for political advertising; shall not exceed six (6) square feet in area. All political signs shall be removed within ten (10) days after the election or meeting with which they are concerned.

### **13.7 REGULATION OF BILLBOARDS**

Billboards may be erected adjacent to M-89, provided that they must meet all of the following conditions. For purposes of these conditions, double-faced billboards (i.e. structures with back-to-back faces containing or able to contain advertising) and V-shaped billboards having only one face visible to traffic proceeding from any given direction on a Street shall be considered as one (1) billboard. Otherwise, billboards having more than one (1) face, including billboards with tandem (side-by-side) or stacked (one-above-the-other) faces, shall be considered as multiple billboards and shall be prohibited in accordance with the minimum spacing requirements set forth below. A billboards surface display area containing or able to contain advertising shall be considered to be the billboards face(s).

- A. Not more than three (3) billboards may be located per linear mile of Street, regardless of the fact that such billboards may be located on different sides of the Street. The linear mile measurement shall not be limited to the City's boundaries if the particular Street extends beyond such boundaries.
- B. No billboard may be located within one thousand (1,000) feet of another billboard. The one thousand (1,000) feet measurement shall not be limited to the City's boundaries.
- C. No billboard may be located within two hundred (200) feet of any residential zoning district, of a pre-existing dwelling, of a pre-existing church or of a pre-existing school. If the billboard is illuminated, the required distance shall be increased to three hundred (300) feet.
- D. No billboard may be located closer than seventy-five (75) feet from a property line adjoining a street. No billboard may be located closer than ten (10) feet from any other property line of the lot on which the billboard is located.
- E. A billboards face may not exceed three hundred (300) square feet. Double-faced billboards and V-shaped billboards may have two (2) faces, but neither one may exceed three hundred (300) square feet.
- F. A billboards height may not exceed twenty (20) feet above the grade of the ground upon which the billboard sits, or above the grade of the abutting street, whichever is higher.



- G. No billboard may be placed on top of, cantilevered from or otherwise suspended above the roof of any building.
- H. A billboard may be illuminated, but only if such illumination is concentrated on the billboards face(s) and is located so as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles, or any adjacent lot. No rotating or oscillating beam, beacon, flashing illumination or intermittent lights may obscure or interfere with the effectiveness of an official traffic sign, signal or device.
- I. A billboard shall be securely anchored and otherwise adequately constructed in order to withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard shall be adequately maintained to assure its continued structural soundness and the continued readability of its message.
- J. A billboard adjacent to the interstate highway, freeway and primary highway systems of the State of Michigan, as such terms are defined in the Highway Advertising Act of 1972 (Michigan Public Act 106 of 1972, as amended), shall comply with all of the above requirements as well as the applicable regulations promulgated thereunder, as such provision and/or regulations may be amended from time to time.

## **ARTICLE XIII-A**

### **CCOD – CITY CENTER OVERLAY DISTRICT**

[added 6-7-04]

#### **13-A.1 INTENT**

The City Center Overlay District is intended to accommodate “Mainstreet” human-scale developments in comfortable mixed-use patterns. The purpose of the district is to enhance the community core by providing for higher density residential uses, commercial uses serving the local area, and appropriate public and semi-public activities. Development within the City Center Overlay District shall:

- A. Be designed in such a manner that will lead to compatible, efficient, and attractive uses of property in the City Center Overlay District.
- B. Encourage unique retail, office and residential use alternatives.
- C. Establish a design palate that will define the community character and generate an identity for the downtowns.
- D. Facilitate pedestrian oriented development using design options such as sidewalk cafes, rear parking, and enhanced landscape criteria.

#### **13-A.2 APPLICABLE REQUIREMENTS & DISTRICT BOUNDARIES**

The requirements of this overlay district are in addition to and shall supplement those imposed on the same lands by the provisions of the underlying zoning district. To the extent that there are conflicts between this and other portions of the zoning ordinance, the requirements of this Article XIII-A pertaining to City Center Overlay District shall apply [amended 4-13-06]. The City Center Overlay District shall affect the properties described as follows and as shown on the City Center Overlay District Boundaries Map:

Beginning at the intersection of the north ROW line of Main Street (M-89) and the east ROW line of Rose Street, thence northerly along the east ROW line of Rose Street to the south ROW line of First Street; thence east along the south ROW line of First Street to the westerly line of the C&O Railroad ROW; thence southwest along the westerly line of the C&O Railroad approximately 128.5 feet to the point of intersection of westerly line of the C&O Railroad ROW and the westerly extension of the rear property line of parcel 0352-032-057-00; thence easterly along the westerly extension of the rear property line of parcel 0352-032-057-00 to the east property line of parcel 0352-032-057-00; thence southerly to the south ROW line of Main Street (M-89); thence westerly along the south ROW line of Main Street (M-89) to the centerline of Sherman Street; thence southerly along the centerline of Sherman Street approximately 120

feet to the point of intersection of the centerline of Sherman Street and the easterly extension of the rear property line of parcel 0352-800-007-00; thence westerly along easterly extension of the rear property line of parcel 0352-800-007-00 and extending through the C&O Railroad ROW to the westerly line of the C&O Railroad ROW; thence southerly along the westerly line of the C&O Railroad ROW approximately 304 feet; then west approximately 171.5 feet; thence north approximately 107 feet; thence west approximately 38.5 feet; thence northerly approximately 120 feet to the centerline of Fennville Street; then westerly along the centerline of Fennville Street to the centerline of South Street; thence northerly along the centerline of South Street approximately 137 feet; thence west approximately 101 feet; thence northerly to the north ROW line of Main Street (M-89); thence westerly to the beginning point.

### **13-A.3 ADMINISTRATION**

In addition to the site plan review and approval standards of ARTICLE XVIII Section 18.0, 18.1 and 18.2, the following procedural standards shall apply:

- A. Downtown Design Review Committee: The Mayor, with approval of the City Council, shall appoint a Downtown Design Review Committee (DDRC) consisting of five (5) members, including: one DDA member, one Planning Commission member, one local business owner, and two other members. The DDRC may include the City's Zoning Administrator or Planner.
1. Members shall serve two-year terms. There is no limit to the number of consecutive terms a committee member may serve.
  2. The DDRC may contract and/or assign some of the DDRC's administrative duties, but not decision authority, to qualified design professionals as needed. It will be the duty of the DDRC to consider and act upon such proposals or plans submitted to it in accordance with the design review procedures established by this section.
  3. The DDRC will meet monthly or as needed to properly perform its duties. After a quorum is reached, the DDRC actions on matters will be subject to a majority vote of members present. The DDRC will keep and maintain a record of all actions taken, and shall be subject to Act 267 of 1976, The Open Meetings Act, as amended.
  4. All development within the City Center Overlay District shall be subject to review by the Downtown Design Review Committee as part of the site plan approval process. Applicants shall submit an application and an additional five copies of all site plans to the City Clerk at least 14 days prior to the Downtown Design Review Committee meeting.

5. The DDRC shall review applications in accord with this section and shall present recommendations to the Planning Commission pertaining to site plan approval and potential conditions of approval. Final approval authority shall reside with the Planning Commission in accord with ARTICLE XVIII.

#### **13-A.4 PERMITTED AND SPECIAL USES**

In lieu of the uses set forth in Section 7.1, 7.3, 13.1 and 13.2, only the following uses are permitted, either by right or through the approval of a special use permit.

a. Uses Permitted by right

1. Antique stores
2. Appliance repair and sales
3. Bakery or confectionery
4. Banks (excluding drive-through)
5. Book store, music store or video shop
6. Coffee shop, delicatessen or café
7. Convenience store, excluding gasoline sales
8. Drug store, gift shop, grocery store
9. Floral shop
10. Galleries, art, craft and hobby supply store
11. Hardware store
12. Home occupation
13. Personal service
14. Places of public assembly
15. Professional offices
16. Residence on the upper floors of Main Street buildings
17. Restaurants and Taverns (but not including drive-through)
18. Seasonal merchandise including outside sales
19. Studio for performing and graphic arts
20. Theaters and cinema
21. Wearing apparel, accessory, jewelry or shoe store
22. Uses similar to uses permitted by right
23. Existing residential dwellings which shall be exempt from the Downtown Design Review Committee requirements of 13-A.3 so long as the use of the entire structure and parcel remains solely for residential use [added 9-15-05]

b. Special Land Uses

1. Bed and Breakfast
2. Car Wash
3. Convenience store with gasoline sales
4. Day care center or Child care center
5. Educational facilities
6. Financial institutions with drive-through

- 7. Hotels and Motels
- 8. Automotive repair

### **13-A.5 DIMENSIONAL STANDARDS**

Development within the City Center shall meet the following general standards:

- A. Development Area: The development area is the portion of a development site where all building improvements will be made. Except for publicly owned park property, each improved lot in the City Center shall contain a development area consisting of no less than fifty percent (50%) and no more than ninety percent (90%) of the total lot area. The development area may consist of buildings, structures, parking areas, sidewalks, plazas or patios, driveways, and any other man-made impervious surfaces.
- B. Open Area: Any part of a lot that is not a development area shall be deemed an open area. No above ground building, parking area or driveway shall be located in an open area. Landscaping, signs, and utilities may be located in an open area.
- C. Building Area: The aggregate building area (gross floor area) of any building in the City Center shall not exceed 22,000 sq. ft., of which the ground floor area shall not exceed 6,000 sq. ft. The building area may be divided into any number of retail or commercial units as long as the floor area of each unit shall not exceed 6,000 sq. ft. The DDRC may approve structures with aggregate building area greater than 22,000 sq. ft. or ground floor area greater than 6,000 sq. ft. provided the building is so designed and constructed as to resemble, to a casual observer, a collection of smaller structures which would meet the intent of this paragraph. The DDRC may allow phased projects that include a viable plan for the full development of the site even though initial phases may not achieve the 70% - 100% development area.
- D. Building Setback Requirements: There shall be zero (0) feet setback requirement for buildings, structures, parking areas, sidewalks, and any other man-made impervious surface located within a development area for both the front and sideyards. If a sideyard setback is desired by applicant, such setback shall be a minimum of ten (10) feet for fire protection purposes, but shall not exceed twenty (20) feet, unless side lot parking is approved. Additional sideyard setback may be requested by local fire department officials. If a front setback is desired by the applicant, the DDRC may approve up to fifteen (15) feet from the right-of-way for semi-public spaces such as seating areas, entry courts, plazas and similar facilities.
- E. Height: Buildings facing Main Street shall have a minimum height of the lesser of one and a half stories or fifteen (15) feet and a maximum height of the greater of three stories or thirty-five (35) feet.

**13-A.6 REGULATIONS AND CONDITIONS**

Development within the City Center Overlay shall meet the following general standards:

- A. Landscaping shall be provided in open spaces to create a pleasant pedestrian scale outdoor environment and buffer primary uses from parking areas, roadways and service facilities, such as dumpsters and loading docks. Landscaping should be designed to buffer service areas, parking or dumpsters. A mix of evergreen and deciduous plants and trees is preferred with summer floral plantings to add to the visual appeal of the City Center areas. An irrigation system shall be required. Temporary potted plants or flower boxes may be permitted to encroach no more than two (2) ( measured from the building line) feet into the public right-of-way on the sidewalk; any further encroachment shall require a Sidewalk Permit per Chapter 50, Section 2 of the Fennville General Law Ordinances.
  
- B. All off-street parking shall be located at the rear of the primary use and provide landscape buffering to separate parking and mitigate the visual and environmental impacts of parking lots, unless there are site-specific features that prevent rear yard parking. There shall be at least one (1) parking space per four hundred (400) sq. ft. of retail building area in the City Center. There shall be a minimum of one (1) parking space for every six (6) seats of restaurant use. In lieu of provision of on-site parking, the Design Review Committee may recommend and Planning Commission may approve a shared parking agreement with another property located not more than five hundred (500) feet from the property in question. Such agreement shall be in writing and shall grant assurances satisfactory to the City that the parking needs of the proposed development shall be adequately met. For parking lots accommodating more than twenty-five (25) parking spaces the following standards shall apply: [amended 4-13-06]
  - (1) Parking lots shall provide shared access with adjoining uses where feasible.
  - (2) Parking areas shall be designed, built, and screened so as to reasonably shield them from the view of Main Street. Planter islands shall be provided.
  - (3) Each parking area shall have not more than two (2) driveways connecting to other parking areas in the City Center Overlay District.
  
- C. Sidewalks – Sidewalks should be a minimum of ten (10) feet in width and must maintain a minimum of five (5) feet of travel area. Outdoor seating or outdoor sales may encumber up to five feet of the ten-foot sidewalk with a Sidewalk Permit pursuant to Chapter 50, Section 2 of the City of Fennville General Law Ordinances. Larger seating areas, sidewalk sales or outdoor displays will require additional sidewalk width. Office, multi-family, public and quasi-public uses shall provide hard surface areas including plazas or courtyards for pedestrian use.

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- D. Sign Standards – See 13.6 (amended 9-2-18)
- E. Architecture – Buildings shall be designed to relate well to other structures in the City Center area. Building façade materials shall include wood, brick or stone, stucco, and approved ornamental metal. Synthetic materials such as vinyl or aluminum siding shall be prohibited. All structures shall reflect and complement the traditional materials, aesthetic character, and construction techniques of Allegan County’s historic architecture. Buildings shall be appropriately in scale and relation to existing structures. Display windows comprising 50% or more of the store façade are required for first floor retail and restaurant uses, facing Main Street. Buildings shall be oriented to block parking lots from view from the street where possible. Where possible, new buildings shall incorporate sprinkler systems for fire protection purposes.
- F. Lighting – Outdoor lighting should be designed to provide the least light necessary to increase pedestrian safety and comfort while incorporating measures should be taken to preserve dark skies and reduce glare. All outdoor lighting shall be cut-off shielded and directed so that no light is cast upward into the sky or outward onto adjoining properties.
- G. Fencing – Permanent fencing may be used to separate commercial from residential uses or as a decorative feature to the rear or side yard of the properties only. Fencing shall not be used where cross-access between parking lots is required. Fencing shall be no taller than three (3) feet in height. Semi-permanent fencing may be used for out-door seating areas and outdoor cafes at the front of the building of no higher than three (3) feet. Opaque screening fences six (6) feet tall shall be used to enclose any dumpsters and other waste receptacles.
- H. Utility connections, dumpsters and service – To the greatest extent possible, utility connections, dumpsters, loading bays and other service facilities shall be located to the rear of the building. Where this is not possible, such facilities should be screened from view by landscaping or architectural features.

## ARTICLE XIV

### OS-1 OFFICE SERVICE DISTRICT

#### 14.0 STATEMENT OF PURPOSE

The OS-1 District is designed to accommodate various types of office uses performing administrative, professional and personal services. These are typically small office buildings, which can serve as a transitional use between the more intensive uses of land such as major thoroughfares and/or commercial districts and the less intensive uses of land such as single-family residential development. This district is specifically intended to prohibit commercial establishments of a retail nature or other activities, which require constant short-term parking.

#### 14.1 PRINCIPAL PERMITTED USES:

In an OS-1 Office Service District, no building or land shall be used and no building shall be erected except for no more than one (1) of the following specified uses:

- A. Single family and two family dwellings.
- B. Executive, administrative and professional offices.
- C. Banks and similar financial institutions.
- D. Government office buildings and public utility offices, but not including storage yards.
- E. Photographic studios and interior decorating studios.
- F. Establishments, which perform personal services on the premises, such as: beauty parlors and barbershops. Uses such as aerobic studios and sun tan salons are prohibited.
- G. Mortuaries and funeral homes.
- H. Group day care or family day care homes when operated in owner occupied single-family dwellings in conjunction with proper licensing and in conformance with State Law and Regulations.
- I. Public Schools.
- J. Billboards. (Subject to 14.8 below)

#### 14.2 ACCESSORY USES

- A. Off-street parking lots.
- B. Accessory buildings or uses customarily incidental to any of the above permitted uses.

#### 14.3 SPECIAL USES (Subject to Article XIX)

- A. Any two (2) uses listed above as Principal Uses or below as Special Uses.
- B. Churches, private schools, libraries and community halls.
- C. One, two and multiple family residential dwelling units on the upper floors of existing office or service establishments provided that:



1. Dwelling units shall not be located below the second floor.
  2. A minimum floor area of 500 square feet for a one-bedroom efficiency shall be provided. For each additional bedroom, an additional 100 square feet of floor area shall be provided.
- D. Veterinary clinics and hospitals provided all activities are conducted within a totally and permanently enclosed building
- E. Medical offices, including clinics, medical laboratories, birthing centers and medical equipment sales.
- F. Facilities for human care, such as sanitariums, convalescent and nursing homes, but not including hospitals.
- G. Private social clubs and fraternal clubs.

**14.4 SITE PLAN REVIEW**

For all principal uses, except single and two-family dwellings, and accessory uses, a site plan shall be submitted in accordance with Article XVIII.

**14.5 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

Front Yard	None
Side Yards	Side abutting a residential district – 5 feet for buildings and parking and loading areas. Side abutting all other districts – 0 feet
Rear Yards	Where rear abuts a residential district and the distances are not separated by an alley or street – 10 feet
Lot Coverage	75%
Building Height	2 ½ stories or 35’, whichever is less
Minimum Lot Area	8,000 square feet
Minimum Lot Width	66’
Minimum Floor Area	For mixed uses, second floor dwelling unit – 500 square feet All other uses - None

- A. Accessory building shall not be erected in any required yard, except a rear yard.
- B. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than five (5) feet to any side or rear lot line.
- C. No detached accessory building shall exceed one (1) story or fourteen (14) feet in height.
- D. When an accessory building is located on a corner lot, the rear yard shall be the yard opposite the street address front yard. In no instance shall an

accessory building be located nearer than twenty (20) feet to a side yard street right-of-way line.

- E. When an accessory building in any Residence, Business or Office District is intended for other than the storage of private motor vehicles, the accessory use shall be subject to the approval of the Planning Commission. Accessory buildings with a floor area of one hundred (120) square feet or less shall not be subject to Planning Commission review.

#### **14.6 OFF STREET PARKING**

Off-street parking for one (1) and two (2) family dwellings and any driveway accessing such parking shall be paved with concrete or bituminous material in a manner which is adequate to prevent washout from obstructing storm sewers and catch basins, and in a manner which is adequate to provide safe access to the dwellings in question. The off-street parking areas for one (1) and two (2) family dwellings and for any driveway accessing them shall be a minimum of eight (8) feet in width for their entire length and shall at a minimum extend between the public or private right-of-way and the required front setback line on each lot. Within any required street front or side yard no driveway may exceed twelve (12) feet in width for each garage parking stall facing the street within twenty (20) feet of the required front setback line. In no case shall the driveway width exceed twenty-six feet in width between the right-of-way line and the curb or road shoulder.

#### **14.7 MINIMUM LANDSCAPE AND SCREEING REQUIREMENTS**

For permitted and special uses, 15% of the site shall be in landscaped open space with one (1) evergreen tree or shrub for every 1,000 square feet or portion thereof plus one (1) small or large deciduous tree for every 2,000 square feet or portion thereof. (Plant materials existing on site prior to development may be included as part of the requirement). Thirty (30) percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 60% of the required open space between the building and the roadway. Whenever feasible, a portion of the landscaping shall be placed adjacent to the building(s).

#### **14.8 REGULATION OF BILLBOARDS**

Billboards may be erected adjacent to M-89, provided that they must meet all of the following conditions. For purposes of these conditions, double-faced billboards (i.e. structures with back-to-back faces containing or able to contain advertising) and V-shaped billboards having only one face visible to traffic proceeding from any given direction on a Street shall be considered as one (1) billboard. Otherwise, billboards having more than one (1) face, including billboards with tandem (side-by-side) or stacked (one-above-the-other) faces, shall be considered as multiple billboards and shall be prohibited in accordance with the minimum spacing requirements set forth below. A billboards surface display area containing or able to contain advertising shall be considered to be the billboards face(s).

## City of Fennville Zoning Ordinance

- A. Not more than three (3) billboards may be located per linear mile of Street, regardless of the fact that such billboards may be located on different sides of the Street. The linear mile measurement shall not be limited to the City's boundaries if the particular Street extends beyond such boundaries.
- B. No billboard may be located within one thousand (1,000) feet of another billboard. The one thousand (1,000) feet measurement shall not be limited to the City's boundaries.
- C. No billboard may be located within two hundred (200) feet of any residential zoning district, of a pre-existing dwelling, of a pre-existing church or of a pre-existing school. If the billboard is illuminated, the required distance shall be increased to three hundred (300) feet.
- D. No billboard may be located closer than seventy-five (75) feet from a property line adjoining a street. No billboard may be located closer than ten (10) feet from any other property line of the lot on which the billboard is located.
- E. A billboards face may not exceed three hundred (300) square feet. Double-faced billboards and V-shaped billboards may have two (2) faces, but neither one may exceed three hundred (300) square feet.
- F. A billboards height may not exceed twenty (20) feet above the grade of the ground upon which the billboard sits, or above the grade of the abutting street, whichever is higher.
- G. No billboard may be placed on top of, cantilevered from or otherwise suspended above the roof of any building.
- H. A billboard may be illuminated, but only if such illumination is concentrated on the billboards face(s) and is located so as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles, or any adjacent lot. No rotating or oscillating beam, beacon, flashing illumination or intermittent lights may obscure or interfere with the effectiveness of an official traffic sign, signal or device.
- I. A billboard shall be securely anchored and otherwise adequately constructed in order to withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard shall be adequately maintained to assure its continued structural soundness and the continued readability of its message.
- J. A billboard adjacent to the interstate highway, freeway and primary highway systems of the State of Michigan, as such terms are defined in the Highway Advertising Act of 1972 (Michigan Public Act 106 of 1972, as amended), shall comply with all of the above requirements as well as the applicable regulations promulgated thereunder, as such provision and/or regulations may be amended from time to time.

## ARTICLE XV

### P – PARKING DISTRICT

#### 15.0 STATEMENT OF PURPOSE

This zoning district is intended to provide vehicular parking facilities that are associated with business or industrial districts. Such facilities are effective as buffer zones between such districts and residential districts. **Those portions of the P district within the boundaries of the CCOD overlay district are subject to review by the Downtown Design Review Committee. Within in the CCOD, the regulations of 13-A.6 shall control over any conflicting regulations within this Article XV.**

#### 15.1 PRINCIPAL PERMITTED USES

In the P District, no uses shall be permitted unless otherwise provided in this Ordinance, except the following:

- A. Premises in this district shall be used only for vehicular parking areas subject to all regulations provided below.
- B. Billboards. (Subject to 15.7 below)

#### 15.2 LIMITATION OF USE

- A. Parking area shall be used for parking or storage of private passenger vehicles only.
- B. Parking may be with or without charge.
- C. No business involving the repair or services to vehicles permitted there or sale, or other storage, or display, shall be conducted upon such premises.
- D. All P Districts shall be contiguous to a Business District or Industrial District; provided, however, that there may be a private drive, public alley or public street between such P District and such Business or Industrial District.
- E. No sign shall be erected or placed on the premises except that not more than one directional sign at each point of ingress and egress may be erected or placed. Such signs may also contain information on price and duration and shall not exceed twelve (12) square feet in area nor fifteen (15) feet in height.
- F. Construction lighting and screening requirements shall be in Accordance with Article XVIII.
- G. All parking areas shall accommodate surface parking only; no parking structures shall be permitted.
- H. Every such parking area shall be surfaced with an asphalt, concrete or similar durable and dustless surface, and shall be graded and drained to dispose of all surface water to the nearest adjoining street and away from adjoining properties.

**15.3 SPECIAL USES PERMIT**

- A. Single-family dwellings.
- B. Two family dwellings.

**15.4 SITE PLAN APPROVAL**

For permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with Article XVIII.

**Those portions of the P district within the boundaries of the CCOD overlay district are subject to review by the Downtown Design Review Committee. Within in the CCOD, the regulations of 13-A.6 shall control over any conflicting regulations within this Article XV.**

**Existing single-family dwellings shall be exempt from the Downtown Design Review Committee requirements of 13-A.3 so long as the use of entire structure and parcel remains solely for one (1) family.**

**15.5 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

Front Yard	None Dwellings – 30 feet
Side Yards	Side abutting a residential district - 5 feet for buildings and parking and loading areas. Side abutting all other districts - 0 feet. Dwellings 10 feet each side.
Rear Yards	None Dwellings – 20 feet
Lot Coverage	100% Dwellings – 35%
Minimum Lot Area	None Dwellings – 10,000 square feet
Minimum Lot Width	30 feet
Minimum Floor Area	Dwelling Units – 800 square feet

- A. Accessory buildings shall not be erected in any required yard, except a rear yard.
- B. No detached accessory building shall be located closer than (10) feet to any main building nor shall it be located closer than five (5) feet to any side or rear lot line.
- C. No detached accessory building shall exceed one (1) story of fourteen (14) feet in height.
- D. When an accessory building is located on a corner lot, the rear yard shall be the yard opposite the street address front yard. In no instance shall an

accessory building be located nearer than twenty (20) feet to a side yard street right-of-way line.

- E. When an accessory building is intended for other than the storage of private motor vehicles, the accessory use shall be subject to the approval of the Planning Commission. Accessory buildings with a floor area of one hundred twenty (120) square feet or less shall not be subject to Planning Commission review.

### **15.6 OFF-STREET PARKING AND LOADING**

Surfacing: Except as otherwise provided in this sub-section, all parking spaces and any driveway accessing such parking spaces shall be paved with concrete or bituminous material in accordance with plans approved by the City Engineer. Such concrete pavement shall be a minimum thickness of six (6) inches. Any bituminous paving shall be a minimum thickness of two (2) inches, or shall be a triple seal coat and shall be placed upon a base of limestone or gravel a minimum thickness of six (6) inches. All paving and/or sealing of parking spaces shall be complete within a period of twelve (12) months after site plan approval. Off-street parking for one (1) and two (2) family dwellings and any driveway accessing such parking shall be paved with concrete or bituminous material in a manner which is adequate to prevent washout from obstructing storm sewers and catch basins, and in a manner which is adequate to provide safe access to the dwellings in question. The off-street parking areas for one (1) and two (2) family dwellings and for any driveways accessing them shall be a minimum of eight (8) feet in width for their entire length and shall at a minimum extend between the public or private right-of-way and the required front setback line on each lot. Within a required residential street front yard no driveway may exceed twelve (12) feet in width for each garage parking stall facing the street within twenty (20) feet of the required front setback line. In no case shall the driveway width exceed twenty-six (26) feet in width between the right-of-way line and the curb or road shoulder.

### **15.7 REGULATION OF BILLBOARDS**

Billboards may be erected adjacent to M-89, provided that they must meet all of the following conditions. For purposes of these conditions, double-faced billboards (i.e. structures with back-to-back faces containing or able to contain advertising) and V-shaped billboards having only one face visible to traffic proceeding from any given direction on a Street shall be considered as one (1) billboard. Otherwise, billboards having more than one (1) face, including billboards with tandem (side-by-side) or stacked (one-above-the-other) faces, shall be considered as multiple billboards and shall be prohibited in accordance with the minimum spacing requirements set forth below. A billboards surface display area containing or able to contain advertising shall be considered to be the billboards face(s).

- A. Not more than three (3) billboards may be located per linear mile of Street, regardless of the fact that such billboards may be located on different sides of

the Street. The linear mile measurement shall not be limited to the City's boundaries if the particular Street extends beyond such boundaries.

- B. No billboard may be located within one thousand (1,000) feet of another billboard. The one thousand (1,000) feet measurement shall not be limited to the City's boundaries.
- C. No billboard may be located within two hundred (200) feet of any residential zoning district, of a pre-existing dwelling, of a pre-existing church or of a pre-existing school. If the billboard is illuminated, the required distance shall be increased to three hundred (300) feet.
- D. No billboard may be located closer than seventy-five (75) feet from a property line adjoining a street. No billboard may be located closer than ten (10) feet from any other property line of the lot on which the billboard is located.
- E. A billboards face may not exceed three hundred (300) square feet. Double-faced billboards and V-shaped billboards may have two (2) faces, but neither one may exceed three hundred (300) square feet.
- F. A billboards height may not exceed twenty (20) feet above the grade of the ground upon which the billboard sits, or above the grade of the abutting street, whichever is higher.
- G. No billboard may be placed on top of, cantilevered from or otherwise suspended above the roof of any building.
- H. A billboard may be illuminated, but only if such illumination is concentrated on the billboards face(s) and is located so as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles, or any adjacent lot. No rotating or oscillating beam, beacon, flashing illumination or intermittent lights may obscure or interfere with the effectiveness of an official traffic sign, signal or device.
- I. A billboard shall be securely anchored and otherwise adequately constructed in order to withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard shall be adequately maintained to assure its continued structural soundness and the continued readability of its message.
- J. A billboard adjacent to the interstate highway, freeway and primary highway systems of the State of Michigan, as such terms are defined in the Highway Advertising Act of 1972 (Michigan Public Act 106 of 1972, as amended), shall comply with all of the above requirements as well as the applicable regulations promulgated thereunder, as such provision and/or regulations may be amended from time to time.

## ARTICLE XVI

### I-1 – LIGHT INDUSTRIAL DISTRICT

#### 16.0 STATEMENT OF PURPOSE

The purpose of the I-1 District is to establish a zone where designated industrial and commercial businesses may locate and intermingle, which produce a minimum amount of adverse effect on adjoining premises, are compatible with one another, and do not require large land or building areas for operation nor large yard areas for isolation or protection from adjoining premises or activities.

#### 16.1 PRINCIPAL PERMITTED USES

In the I-1 District, no uses shall be permitted, unless otherwise provided in this Ordinance, except the following:

- A. Wholesale and Warehousing: The sale at wholesale or warehousing of automotive equipment, alcoholic beverages, dry goods and apparel, groceries and related products, raw farm products except meat and poultry, electrical goods, hardware, plumbing, heating equipment and supplies, machinery and equipment, tobacco and tobacco products, furniture and home furnishings, and any commodity the manufacture of which is permitted in this District, and truck terminals.
- B. Testing and research laboratories.
- C. Tool and dies shops.
- D. Facilities for the printing or forming of box, carton and cardboard products.
- E. Electric transformer stations and substations, electric transmission towers, municipal building and uses, gas regulators and municipal utility pumping stations.
- F. Indoor tennis, paddleball or racquetball courts.
- G. Commercial bakeries.
- H. Cold storage plants.
- I. Bottling works, including milk bottling or distribution station.
- J. Heating, cooling or plumbing supply shops.
- K. Contractor's storage yards.
- L. Mini-storage facilities.
- M. Automobile storage and parking.
- N. Hotel, motels, and motor courts.
- O. Billboards. (Subject to 16.8 below)

#### 16.2 ACCESSORY USES

- A. Accessory buildings and uses customarily incidental to the above Principal Permitted Uses.
- B. Off-Street Parking.
- C. Outdoor trash containers or dumpsters.



**16.3 SPECIAL USES (Subject to Article XIX)**

- A. Planned Industrial Parks.
- B. Radio, television, and windmill towers.
- C. Kennels.

**16.4 COMPLIANCE WITH COUNTY AND STATE REGULATIONS**

Uses permitted in the I-1 District, must comply with applicable County and State health regulations, all pollution laws and federal regulations. All required State and/or County approvals may be required before final site plan approval or before an occupancy permit is issued.

**16.5 SITE PLAN REVIEW**

For all permitted uses, accessory uses and uses subject to a special use permit, a site plan shall be submitted in accordance with Article XVIII.

**16.6 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

FRONT YARD	50 feet
Side Yards	30 feet
Rear Yards	30 feet
Lot Coverage	50%
Building Height	50 feet
Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet

**16.7 MINIMUM LANDSCAPE AND SCREEING REQUIREMENTS**

For permitted and special uses, 15% of the site shall be in landscaped open space with one (1) evergreen tree or shrub for every 1,000 square feet or portion thereof plus one (1) small or large deciduous tree for every 2,000 square feet or portion thereof. (Plant materials existing on site prior to development may be included as part of the requirement). Thirty (30) percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 60% of the required open space between the building and the roadway. Whenever feasible, a portion of the landscaping shall be placed adjacent to the building(s).

**16.8 REGULATION OF BILLBOARDS**

Billboards may be erected adjacent to M-89, provided that they must meet all of the following conditions. For purposes of these conditions, double-faced billboards (i.e. structures with back-to-back faces containing or able to contain advertising) and V-shaped billboards having only one face visible to traffic proceeding from any given direction on a Street shall be considered as one (1) billboard. Otherwise, billboards having more than one (1) face, including billboards with tandem (side-by-side) or stacked (one-above-the-other) faces, shall be considered as multiple billboards and shall be prohibited in accordance with the minimum spacing requirements set forth below. A billboards surface

display area containing or able to contain advertising shall be considered to be the billboards face(s).

- A. Not more than three (3) billboards may be located per linear mile of Street, regardless of the fact that such billboards may be located on different sides of the Street. The linear mile measurement shall not be limited to the City's boundaries if the particular Street extends beyond such boundaries.
- B. No billboard may be located within one thousand (1,000) feet of another billboard. The one thousand (1,000) feet measurement shall not be limited to the City's boundaries.
- C. No billboard may be located within two hundred (200) feet of any residential zoning district, of a pre-existing dwelling, of a pre-existing church or of a pre-existing school. If the billboard is illuminated, the required distance shall be increased to three hundred (300) feet.
- D. No billboard may be located closer than seventy-five (75) feet from a property line adjoining a street. No billboard may be located closer than ten (10) feet from any other property line of the lot on which the billboard is located.
- E. A billboards face may not exceed three hundred (300) square feet. Double-faced billboards and V-shaped billboards may have two (2) faces, but neither one may exceed three hundred (300) square feet.
- F. A billboards height may not exceed twenty (20) feet above the grade of the ground upon which the billboard sits, or above the grade of the abutting street, whichever is higher.
- G. No billboard may be placed on top of, cantilevered from or otherwise suspended above the roof of any building.
- H. A billboard may be illuminated, but only if such illumination is concentrated on the billboards face(s) and is located so as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles, or any adjacent lot. No rotating or oscillating beam, beacon, flashing illumination or intermittent lights may obscure or interfere with the effectiveness of an official traffic sign, signal or device.
- I. A billboard shall be securely anchored and otherwise adequately constructed in order to withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard shall be adequately maintained to assure its continued structural soundness and the continued readability of its message.
- J. A billboard adjacent to the interstate highway, freeway and primary highway systems of the State of Michigan, as such terms are defined in the Highway Advertising Act of 1972 (Michigan Public Act 106 of 1972, as amended), shall comply with all of the above requirements as well as the applicable regulations promulgated thereunder, as such provision and/or regulations may be amended from time to time.

## ARTICLE XVII

### I-2 – GENERAL INDUSTRIAL DISTRICT

#### 17.0 STATEMENT OF PURPOSE

The purpose of this District is to provide areas where heavier types of industry may best utilize essential public and private facilities and utilities while minimizing the negative impacts typically associated with this type of industry.

#### 17.1 PRINCIPAL PERMITTED USES

- A. All permitted uses in the I-1 District.
- B. Establishments which assemble and manufacture automobiles, automobile bodies, parts and accessories, electrical fixtures. Batteries and other electrical apparatus and hardware.
- C. Establishments which process, refine or store food and foodstuffs.
- D. Breweries, wineries, bump shops, distilleries, machine shops, metal buffing shops, plastering and polishing shops, metal and plastic molding shops, extrusion shops, lumber and planing mills, painting and sheet metal shops, undercoating and rust proofing shops and welding shops.
- E. Municipal sewage treatment plants.
- F. Coal or building material storage yards.
- G. Truck terminals.
- H. Manufacture of food products.
- I. Any uses similar to the above.
- J. Central laundry and dry cleaning plants.
- K. Billboards. (Subject to 17.8 below)

#### 17.2 ACCESSORY USES

- A. Accessory buildings and uses customarily incidental to the above Principal Permitted Uses.
- B. Off-street parking.
- C. Outdoor trash containers or dumpsters.

#### 17.3 SPECIAL USES (Subject to Article XIX)

- A. Automobile disposal and junkyards.

#### 17.4 PERFORMANCE STANDARDS

Before the issuance of any building or occupancy permit in this zone, the applicant shall comply with an agreement that the use of the property will meet the following performance standards, or that any violation of these standards in subsequent operations will be corrected, the costs of inspection by experts for compliance will be borne by the applicant.

**A. OPEN STORAGE**

All storage of building, contracting, or plumbing materials, sand, gravel, stone, lumber, equipment, and other supplies, shall be located within an area not closer than one hundred and fifty (150) feet from any street right-of-way line. The storage of lumber, coal, or other combustible material shall not be less than twenty (20) feet from any interior lot line, and a roadway shall be provided, graded, surfaced, and maintained from the street to the rear of the property to permit free access of fire trucks at any time. All such open storage shall be screened from all streets, and on all sides, which abut any Residential or Business District, by a solid six (6) foot wall or fence sufficient to serve as a permanent retaining wall or fence.

**B. SMOKE, FUMES, GASES, DUST, ODORS**

There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to create a public nuisance.

**C. LIQUID OR SOLID WASTE**

The discharge of untreated industrial waste is prohibited. All methods of salvage, industrial waste treatment and disposal shall be approved by the City and Department of Environmental Quality. No effluent shall contain any acids, oils, dust, toxic metals, corrosives or other toxic substance in solution or suspension which would create odors, or discolor, poison or otherwise pollute the water or soil in any way.

**D. HAZARDOUS AND CRITICAL MATERIALS**

Any use where materials listed in the Michigan Critical Materials Registry are stored or used must prepare a pollution prevention plan. The exact location where all such materials are stored must be given to the Fire Chief.

**17.5 SITE PLAN REVIEW**

For all permitted uses and uses permitted subject to a special use permit, a site plan shall be submitted in accordance with Article XVIII.

In addition, the Planning Commission shall have the authority to require an environmental impact assessment for any proposed use in the I-2 District, where the Planning Commission determines that there is an apparent potential for a public nuisance from any of the performance criteria listed above in order to negotiate a mutually agreeable method for measuring impacts and determining violations. Upon the finding of a negative impact the Planning Commission or City Commission may require an environmental impact study/statement from the applicant.

**17.6 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

Front Yard	50 Feet
Side Yards	30 Feet
Rear Yards	50 Feet
Lot Coverage	50%
Building Height	50 Feet
Minimum Lot Area	20,000 Square Feet
Minimum Lot Width	100 Feet

**17.7 MINIMUM LANDSCAPE & SCREENING REQUIREMENTS**

For permitted and special uses, 15% of the site shall be in landscaped open space with one (1) evergreen tree or shrub for every 1,000 square feet or portion thereof plus one (1) small or large deciduous tree for every 2,000 square feet or portion thereof. (Plant materials existing on site prior to development may be included as part of the requirement). Thirty (30) percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 60% of the required open space between the building and the roadway. Whenever feasible, a portion of the landscaping shall be placed adjacent to the building(s).

**17.8 REGULATION OF BILLBOARDS**

Billboards may be erected adjacent to M-89, provided that they must meet all of the following conditions. For purposes of these conditions, double-faced billboards (i.e. structures with back-to-back faces containing or able to contain advertising) and V-shaped billboards having only one face visible to traffic proceeding from any given direction on a Street shall be considered as one (1) billboard. Otherwise, billboards having more than one (1) face, including billboards with tandem (side-by-side) or stacked (one-above-the-other) faces, shall be considered as multiple billboards and shall be prohibited in accordance with the minimum spacing requirements set forth below. A billboards surface display area containing or able to contain advertising shall be considered to be the billboards face(s).

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- B. No billboard may be located within one thousand (1,000) feet of another billboard. The one thousand (1,000) feet measurement shall not be limited to the City’s boundaries.
- C. No billboard may be located within two hundred (200) feet of any residential zoning district, of a pre-existing dwelling, of a pre-existing church or of a pre-existing school. If the billboard is illuminated, the required distance shall be increased to three hundred (300) feet.

- D. No billboard may be located closer than seventy-five (75) feet from a property line adjoining a street. No billboard may be located closer than ten (10) feet from any other property line of the lot on which the billboard is located.
- E. A billboards face may not exceed three hundred (300) square feet. Double-faced billboards and V-shaped billboards may have two (2) faces, but neither one may exceed three hundred (300) square feet.
- F. A billboards height may not exceed twenty (20) feet above the grade of the ground upon which the billboard sits, or above the grade of the abutting street, whichever is higher.
- G. No billboard may be placed on top of, cantilevered from or otherwise suspended above the roof of any building.
- H. A billboard may be illuminated, but only if such illumination is concentrated on the billboards face(s) and is located so as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles, or any adjacent lot. No rotating or oscillating beam, beacon, flashing illumination or intermittent lights may obscure or interfere with the effectiveness of an official traffic sign, signal or device.
- I. A billboard shall be securely anchored and otherwise adequately constructed in order to withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard shall be adequately maintained to assure its continued structural soundness and the continued readability of its message.
- J. A billboard adjacent to the interstate highway, freeway and primary highway systems of the State of Michigan, as such terms are defined in the Highway Advertising Act of 1972 (Michigan Public Act 106 of 1972, as amended), shall comply with all of the above requirements as well as the applicable regulations promulgated thereunder, as such provision and/or regulations may be amended from time to time.

## ARTICLE XVIII

### SITE PLAN REVIEW AND GENERAL DESIGN STANDARDS

#### 18.0 SITE PLAN REVIEW AND APPROVAL

A site plan review procedure is hereby established for the City of Fennville. The purpose of a site plan review is to determine compliance with the provisions set forth herein and to promote the orderly development of the City, the stability of land values and investments in the general welfare, and to help prevent impairment of depreciation of land values and development by the erection of structures or additions or alterations thereto without proper attention to siting and appearance.

The following provisions in this Section shall apply to all uses requiring site plan review by this Ordinance, including multiple family developments, site condominium developments, commercial developments, industrial developments, all uses requiring Special Use Approval, and accessory uses to the previously mentioned uses. Approved plans shall regulate the development on the premises, unless modified in the same manner as the plans were originally approved. Mobile Home Parks are subject to submission and preliminary site plan review provisions only.

Site plan review is required for a change of use in an existing structure only if the new use is a Special Use or if the site requirements for the new use differ from the site requirement for the previous use.

#### 18.1 SUBMISSION REQUIREMENTS

Fifteen (15) copies of all site plans, as required by this Ordinance shall be submitted to the City Clerk at least seven (7) days prior to the Planning Commission meeting.

- A. All site plan reviews shall use the following procedures
1. The Planning Commission shall review the site plan at its next regularly scheduled meeting. The Planning Commission may elect to postpone a decision on the site plan until its next regularly scheduled meeting if the site plan is determined to be incomplete or has been submitted within seven (7) calendar days of the meeting.
  2. The Planning Commission shall approve, approve with specified changes and/or conditions, or disapprove the applicant's request, using the standards described in this Article.
  3. Conditions or changes stipulated by the Planning Commission shall be recorded in the minutes of the

meeting and made available to the applicant in writing.

All copies of an approved site plan, with or without changes, shall contain the signatures of the Chairman of the Planning Commission and the applicant

4. Of the site plan copies submitted, one shall be kept on file by the Planning Commission, one retained by the City Clerk, one given to the zoning administrator and one returned to the applicant.
- B. The following information shall accompany all plans submitted for preliminary and final review:
1. A legal description of the property under consideration.
  2. A map indicating the gross land area of the development, the present zoning classification thereof and the zoning classification and land use of the area surrounding the proposed development, including the location of structures and other improvements.
  3. The names and addresses of the architect, planner, designer or engineer responsible for the preparation of the site plan.
  4. Drawing or sketches of the exterior and elevations, and/or perspective drawings of the building or structures under consideration.
- C. The following information shall be included on site plans submitted for final approval:
1. A scale of not less than 1" = 40', if the subject property is less than three (3) acres, and 1" = 100', if it is three (3) acres or more.
  2. Date, north point and scale.
  3. The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.
  4. The siting of all structures on the subject property and abutting properties.
  5. The location of each proposed structure in the development area, the use or uses to be contained therein, the number of stories, gross building areas, distances between structures and lot lines, setback lines, and approximate location of vehicular entrances and loading points.
  6. The location of all existing and proposed drives and parking areas with the number of parking and/or loading spaces provided.
  7. All pedestrian walks, malls or open areas.
  8. Location and height of all walls, fences and screen planting, including a general plan for the landscaping of the development and the method by which landscaping is to be accomplished and maintained.
  9. The location and right-of-way widths of all abutting streets
  10. Types of surfacing, such as paving, turfing or gravel to be used at the various locations



11. For new site development a grading plan with topographic elevation of at least 2' contours in the area, showing method of storm drainage into city storm sewer system, through catch basins. Mobile Home Park plans are exempt from this provision; however, the preliminary plan must show sufficient on-site stormwater retention from impermeable surfaces within the development for the Michigan Department of Environmental Quality 24 hour 25-year frequency rainfall for western Allegan County. (4.5 inches)
12. Size and location of proposed sewer and water lines and connections. (Size, capacity and location of connections required on preliminary site plans for mobile home parks)
13. For multiple family developments, the number of proposed units.
14. Significant environmental features such as wetlands, shoreline, streams, woodlots, existing trees and vegetation.
15. Information as may be required by the Planning Commission to assist in the consideration of the proposed development.
16. For all Industrial Special Use applications an environmental impact assessment is required. For all other Special Uses and environmental impact assessment may be required.

## **18.2 REVIEW PROCEDURES**

In order that building, open space and landscaping will be in harmony with other structures and improvements in the area, and to assure that no undesirable health, safety, noise and traffic conditions will result from the development, the Planning Commission shall determine whether the site plan meets the following criteria, unless the Planning Commission determines that one or more of such criteria are inapplicable. The Planning Commission may require an environmental impact study for any of the below listed criteria:

- A. The vehicular transportation system shall provide for circulation throughout the site for efficient ingress and egress to all parts of the site by fire and safety equipment.
- B. Pedestrian walkways shall be provided as deemed necessary by The Planning Commission for separating pedestrian and vehicular traffic.
- C. Recreation and open space areas shall be provided in all multiple family residential developments.
- D. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in the Zoning Ordinance, unless otherwise provided.
- E. The requirements for fencing, walks and other protective barriers shall be complied with as provided in the Zoning Ordinance and as deemed appropriate by the Planning Commission.
- F. The site plans shall provide for adequate storage space for the use therein.

- G. Security measures shall be provided as deemed necessary by the Police Chief for resident protection in all multiple family residential developments.
- H. Fire protection measures shall be provided as deemed necessary by the Fire Chief in conformance with all applicable laws of the State of Michigan for the protection of residents and/or occupants of the structures.
- I. The site plan shall comply with all requirements of the applicable zoning district, unless otherwise provided.
- J. The Planning Commission may require that the final site plan have the seal of the licensed profession responsible for preparing the site plan.

### **18.3 SITE PLAN APPROVAL**

The site plan shall be reviewed by the Planning Commission and other appropriate bodies as heretofore designated with a recommendation for its approval or disapproval and any conditions the Planning Commission feels should be imposed.

- A. The Planning Commission shall have the function and power to Approve or disapprove the site plan subject to compliance with such modifications and conditions as may be deemed necessary to carry out the purpose of these regulations and other Ordinances.
- B. The Planning Commission shall have the function and power to request additional professional review from the City Attorney, Engineering Consultant and/or Planning Consultant, and the permittee shall be responsible for any and all charges incurred therefore.
- C. The Building Permit may be revoked in any case where the conditions of such permit have not been or are not being complied with, in which case the City Commission shall give the permittee notice of intention to revoke such permit at least ten (10) days prior to review of the permit by the City Commission. After conclusions of such review the City Commission may revoke such permit if it feels that a violation in fact exists and has not been remedied prior to such hearing.

### **18.4 SITE CHANGE**

Any structure, use or field change added subsequent to the initial site plan approval must be approved by the Planning Commission. Incidental and minor variations of the approved site plan with the written approval of the Building Inspector/Zoning Administrator shall not invalidate prior site plan approval

A. Minor Change

Minor changes to an approved final site plan may be authorized by the Zoning Administrator without prior Planning Commission review. Examples of minor changes include the following:

1. Minor variations in concept of design of the development which are determined by the Zoning Administrator not to be major changes.
2. Increases or decreases of residential or non-residential floor areas by ten (10) percent or less.
3. Relocation of any surface or subsurface structure or improvement by less than twenty (20) feet from its planned location.
4. Increases or decreases in planned elevations of finish grades, or changes in the area or materials of paved areas, which affect less than five hundred (500) square feet or five percent (5%) of the total lot area, whichever is less.
5. Increases or decreases or changes in type, height, or length of walks, fencing, berms, or screen plantings.
6. Additions or deletions of permitted accessory uses to the principal uses permitted by the approved site plan.
7. Changes in the location of essential public utilities and services from those approved on the site plan in order to accommodate their installation.

If an applicant decides to appeal the disapproval of a minor change by the Zoning Administrator, the Zoning Administrator shall forward the applicant's file with the Zoning Administrator's reasons for disapproval to the City Commission.

B. Phased Construction

Where phased or staged construction is contemplated for the development of a project, the site plan submitted must show the interrelationship of the proposed project to the future stages, including the following:

1. Relationship and identification of future structures.
2. Pedestrian and vehicular circulation.
3. Time schedule for completion of the various phases of the proposed construction.
4. Temporary facilities or construction of same as required to facilitate the stated development.

**18.5 NON RESIDENTIAL USES ABUTTING RESIDENTIALLY ZONED LOTS**

Except as otherwise provided in this Zoning Ordinance, all premises used for business, commercial or industrial purposes shall be screened from abutting residential districts. Screening shall be any of the following and shall apply to side yard and rear yards:

- A. A natural buffer planted with evergreens or shrubbery which maintains their density and screening effect throughout the calendar year, and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
- B. A wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises, and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
- C. An earth berm, planted and maintained in accordance with this Ordinance.
- D. For side yard screening, no such wall or fence shall impair safe sight distances. If requested, such evaluation shall be made by the Chief of Police.
- E. Minimum heights by district abutting residentially zoned areas shall be in accordance with the following schedule:

	DISTRICT	MINIMUM HEIGHT
1	B-1, B-2 and OS-1 Districts	4'6"
2	I-1 and I-2 Districts, open storage areas, loading and unloading areas, service areas	6'
3	Vehicle wash establishments and Drive-In Restaurants	6'
4	Hospital, ambulance and delivery areas	6'
5	Utility buildings, stations and substations	6'

- F. Planning Commission discretion in governing screening barriers for non-residential uses adjacent to residentially zoned areas shall be governed by the character of the area and the anticipated impacts on the adjacent areas.

**18.6 MINIMUM LANDSCAPE & SCREENING REQUIREMENTS**

- A. All areas shall be landscaped and shall meet the following standards:
  - 1. No synthetic plant materials such as artificial grass, shrubs, trees or flowers shall be used to fulfill any landscaping requirements.
  - 2. Berms, whenever utilized shall be designed and landscaped to minimize erosion. Berms adjacent to public rights-of-way shall have a slope not greater than 3:1, unless designed as part of a retaining wall.

3. All landscaping materials shall consist of healthy specimens compatible with local climate, soil characteristics, drainage, and water supply. All plant material shall be reasonably resistant to drought and disease. Non-nursery derived stock shall not be used to satisfy these requirements.
  4. Grass or other living plants shall be primary ground cover in required landscaped areas. Both sod planting and seeding are acceptable.
  5. Ground covers other than grass shall be planted in required areas to provide complete coverage within two (2) growing seasons. Vines shall not be used adjacent to pedestrian areas.
  6. Unless otherwise specified, materials such as river rock, cobble, boulders, paving stone, patterned concrete, bark and wood chips shall be limited to small areas and shall not exceed 25 percent of the required landscape area. All such ground covers shall be at least six (6) inches deep. Loose gravel less than three (3) inch minimum aggregate size shall not be used in areas abutting public streets or sidewalks.
- B. Maintenance shall include all reasonable and regular irrigation, weeding, fertilizing and pruning. Plant materials which show signs of insect pests, diseases and/or damage shall be appropriately treated. Dead plant material shall be replaced immediately or as soon as practical under the seasonal conditions existing and according to the approved site plan. The developer and subsequent owner(s) shall be responsible for maintaining all on-site landscaping.
- C. Landscaping plans may be submitted to the Zoning Administrator for technical review and to the Planning Commission for approval within ninety (90) days after final approval of the site plan. Plans may be submitted as an amendment to the site plan, thereby not requiring an additional review fee. On projects in excess of two (2) acres, the developer may file a phased plan for completing the landscaping pursuant to these standards.

### **18.7 OFF-STREET PARKING AND LOADING**

All buildings located in the City shall provide off-street parking adequate for the use intended.

The dimension of off-street parking spaces shall be in accordance with the following minimum dimensions:

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Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Spaces Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane
0° Parallel Parking	12 ft.	8 ft.	23 ft.	20 ft.	28 ft.
30° to 53° diagonal	13 ft.	9 ft.	20 ft.	33 ft.	53 ft.
54° to 74° diagonal	18 ft.	9 ft.	21 ft.	39 ft.	60 ft.
75° to 90° diagonal	25 ft.	9 ft.	19 ft.	44 ft.	63 ft.

The graphic entitled “Parking Layouts” is included for illustration purposes only and not drawn to scale.

- A. Residential off-street parking: Parking in residential zones is only permitted as an accessory use or as a transitional use and in no case is it intended that parking or access drives to parking be permitted as a principal use of any residentially zoned lot.
- B. Non-Residential off-street parking: Except in parking exempt areas, provisions shall be made for off-street parking for all non-residential buildings or additions to such buildings in all districts. The conversion of an existing residence to any other use shall be deemed to be a new use, which must meet all provisions of this Ordinance.
- C. Mixed Occupancies and Uses Not Specified: In the case of Mixed uses, the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately. Parking areas for churches, theaters or other uses in which the primary parking demand occurs out of normal store operation hours may be jointly used where adequate arrangements are made to insure that the space is available for each function.
- D. Location of Off-Street Parking Facilities: Off-street parking facilities shall be located as hereafter specified; where a distance is specified it shall be the distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve, as follows:
  - 1. For all residential buildings and for all non-residence buildings in residential zones, required parking shall be provided on the same plot with the building.

2. For commercial and all non-residential uses in commercial zones, required parking shall be provided within five hundred (500) feet.
  3. For industrial uses, required parking shall be provided within three hundred (300) feet.
- E. Parking Areas in Commercial, Office and Industrial Districts:  
Every parcel of land hereafter established as a public or private parking area in any commercial, office or industrial district or hereafter enlarged or altered shall be developed and maintained in accordance with the following requirements:
1. Off-street parking area shall be effectively screened on any side which adjoins or faces premises situated in any residential district or institutional premises, by a screening, fence, wall, planting strip or other material approved by the Planning Commission. The height of the barrier shall be 4'6".
  2. Required barriers shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines in abutting Residential Districts. Upon review of the site plan, the Planning Commission may approve an alternate location for the barrier or may waive the screening requirement if in specific cases it would not serve the purposes of screening the parking area effectively. Required barriers may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a non-residential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required barrier on a given block will be a major consideration of the Planning Commission in reviewing such request.
  3. Such barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Ordinance and except such openings as may be approved by the Chief of Police and the Building Inspector. All barriers herein required shall be constructed of materials approved by the Building Inspector to be durable, weather resistant, rust proof and easily maintained. Masonry walls may be constructed with openings which do not in any square section (height and width) exceed twenty (20) percent of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the Building Inspector.
  4. The requirement for a screening barrier between off-street parking areas, outdoor storage areas, and any abutting residential district shall not be required when such areas are located more than two hundred (200) feet distant from such abutting residential district.

5. The Planning Commission may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served provided that in no instance shall a required barrier be permitted to be less than four feet six inches (4'6") in height. In consideration of a request to waive all requirements between non-residential and residential districts, the Zoning Board of Appeals shall refer the request to the Planning Commission for a determination as to whether or not the residential district is considered to be an area in transition and will become non-residential in the future. In such cases as the Planning Commission determines the residential district to be a future non-residential area, the Board of Appeals may temporarily waive screening requirements for an initial period not to exceed twelve (12) months. Granting of subsequent waivers shall be permitted, provided that the Planning Commission shall make a determination as hereinbefore described, for each subsequent waiver prior to the granting of such waiver by the Board of Appeals.
  6. Every such off-street parking area shall be surfaced in accordance with this Ordinance.
  7. Any lighting in connection with off-street parking shall be designed to provide adequate cover for safety but also the least light necessary to increase pedestrian safety and comfort while incorporating measures to preserve dark skies and reduce glare. All outdoor lighting shall be cut-off shielded and directed so that no light is cast upward into the sky or outward onto adjoining properties.
  8. The off-street parking area shall be subject to the approval of the Planning Commission to insure its adequacy in relation to traffic safety, lighting and protection of adjacent property.
- F. Additional requirements within the CCOD district:
1. In lieu of the provision of on-site parking, the Design Review Committee may recommend and the Planning Commission may approve a shared parking agreement with another property located not more than 500 feet from the property under review. Such agreement shall be in writing and shall include assurances satisfactory to the City that the parking needs of the proposed development shall be adequately met. For parking lots accommodating more than 25 parking spaces the following standards apply:
    - a. Parking lots shall provide shared access with adjoining uses where feasible.
    - b. Parking areas shall be designed, built, and screened so as to reasonably shield them from view from Main Street. (See Section 13-A.6)
    - c. Planters islands shall be provided within the parking area. (See 13-A.6)



- d. Each parking area shall have not more than two (2) driveways connecting to other parking areas in the City Center Overlay District.
  2. All off-street parking shall be located at the rear of the primary use and provide landscape buffering to separate parking and mitigate the visual and environmental impact of parking lots, unless there are site-specific features that prevent rear yard parking.
- G. **Parking Areas in Residential Zones:** Any person desiring to establish a parking area as an accessory use in a residential zone shall submit plans to the Planning Commission showing the location, size, shape, design, landscape, curb cuts, and other features of the parking lot. The establishment and operation of a parking area accessory to a commercial or industrial use in such parts of any residential district that abut either directly or across the street or alley from a commercial or industrial district is not permitted. All such parking areas required for new multiple family dwellings and non-residential buildings in all residential zones may then be authorized, subject to the following conditions:
  1. All parking areas shall be landscaped, screened, surfaced and drained as provided in this Ordinance.
  2. No part of such parking areas shall extend into the required front yard more than one-half (1/2) of the yard required for a residential building, and where the lot or a portion of the lot lies between two (2) privately owned residential properties, the full front yard setback shall be observed. In either case, the front yard area not occupied by the access drive shall be landscaped.
  3. All such parking areas shall be at least forty (40) feet in width.
  4. Such parking areas shall be used solely for the parking of passenger automobiles, and no commercial repair work or sales or service of any kind shall be conducted on such parking lot. No sign, other than entrance, exit and condition of use signs, shall be maintained, and the aggregate area of all such signs shall not exceed twelve (12) square feet.
  5. Each entrance to and exit from such parking lot shall be at least twenty (20) feet in distance from any adjacent property located in any residential zone, and the location and design of entrances, exit, surfacing, landscaping, marking, and lighting shall be subject to the approval of the Planning Commission to insure adequate relation to traffic safety, lighting and protection of the adjacent residential area.
  6. The Zoning Administrator shall thereafter issue a permit, which may be revoked at any time that the aforementioned requirements are not complied with. Any person operating the premises to which said permit relates in violation of any of the conditions specified by this Ordinance or fixed to such permit, shall be deemed a violation of this Ordinance and shall be subject to the penalties prescribed in this Ordinance.

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- H. Parking and Storage of Unlicensed Vehicles: Automotive vehicles of any kind or type without current license plates shall not be stored within the required yard on any residentially zoned property, unless within an enclosed building.
- I. Table of Parking Requirements: The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings as specified above, shall be determined in accordance with the following table, and the space, so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use and/or shall comply with the initial part of this Section. Land uses within the CBD Central Business District shall be exempt from the Table of Parking Requirements.

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
<b>RESIDENTIAL</b>	
One & Two Family	Two (2) for each dwelling unit
Multiple Family	Two for each dwelling unit for developments of 1-24 units. One point seven five (1.75) space for each dwelling unit for developments of 24+ units
Mobile Home Park & Mobile Home Courts	Two (2) for each trailer or mobile home site and one (1) for each employee of the trailer or mobile home court
Boarding & Rooming House and Bed & Breakfast Facility	One (1) for each sleeping room
Senior Citizen Apartments	Three-quarters $\frac{3}{4}$ space for each unit when mass transit is provided; one space for each unit when not provided

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<b>INSTITUTIONAL</b>	
Churches, Temples or Synagogues	One (1) for each three (3) seats, maximum seating capacity in the main unit of worship; or one (1) space for each thirty-five (35) sq. ft. of gross floor area
Hospitals	One (1) per six hundred (600) sq. ft. of gross floor area
Sanitariums, Convents, home for the Aged, Convalescent Homes, Children's Homes	One (1) per six hundred (600) sq. ft. feet of gross floor area
Adult Foster Care Facilities	One-half (1/2) space per bed plus one (1) space for each employee
Public or Private Elementary and Middle School	One (1) for each classroom plus one space for each five (5) fixed seats of any area used for auditorium purposes or for each thirty- five (35) sq. ft. of seating area where there are no fixed seats
Senior High Schools	One (1) space for each classroom and each other room used by students plus one (1) for each ten (10) full-time students in addition to the requirements for auditoriums
Private Clubs or Lodge Halls	One (1) for each three (3) allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes
Private Golf Clubs, Swimming Pool Clubs, Tennis Clubs or Racquetball Clubs	Shall be the amount required for each accessory use, including but not limited to: Four (4) per golf hole; one (1) per each three (3) persons permitted in a building under the fire code.

Stadium, Sport Arena or similar place of outdoor assembly	One (1) for each three (3) seats or ten (10) feet of bench
Theaters, Gymnasiums, Auditoriums (Indoor)	One (1) for each four (4) seats
Libraries, Museums and Non-Commercial Art Galleries	One (1) for each five hundred (500) sq. ft. of gross floor area
Day-care, Pre-school & Nursery Schools	One (1) space for each staff member plus one (1) space for every five (5) children or one (1) space for every ten (10) children if adequate drop-off facilities are provided
Jails	One (1) space for each staff member plus one (1) space for every five (5) cells, in addition to off street loading spaces for delivery and transport vehicles
<b>BUSINESS AND COMMERCIAL</b>	
Automobile Service	Two (2) for each lubrication stall, rack, pit, or pump,

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Stations, Gasoline Stations, Convenience Stores in conjunction with service or gas stations	plus one (1) for every four hundred (400) sq. ft. of floor area devoted to retail sales.
Auto Wash, Auto Reconditioning, Auto Cleaning (interior/exterior)	One (1) for two hundred fifty (250) sq. ft. of gross floor area devoted to reconditioning or cleaning, or, one (1) for each bay.
Beauty Parlor or Barber Shop	Three spaces (3) for each of the first two (2) beauty or barber chairs, and one and one-half (1½) spaces for each additional chair
Bowling Alleys	Five (5) for each one (1) bowling lane

Dance Halls, Pool or Billiard Parlors, Roller or Ice Rinks, Exhibition Halls & Assembly Halls without fixed seats	One (1) for each three (3) seats or one (1) for each four hundred (400) sq. ft. of gross floor area
Drive-In Establishments	Five (5) queue spaces for each drive-up window, plus one (1) parking space for each drive-up window (for employees). Additional spaces for interior service area as applicable (see next use below)
Establishments for sale & consumption on the premises of beverages, food or refreshments	One (1) for every six (6) seats
Furniture and Appliance, Household Equipment, Repair Shop, Showroom of a Plumber, Decorator, Electrician or similar trade, Shoe Repair and other Similar Uses	One (1) for each eight hundred (800) sq. ft. of floor area, occupied in processing or manufacturing
Laundromats and Coin Operated Dry Cleaners	One (1) for each two (2) washing machines
Mini-storage	One (1) space per storage unit
Miniature Golf Courses	Three (3) for each one (1) hole plus one (1) for each six hundred (600) sq. ft. of gross floor area in the club house.
Mortuary Establishments	One (1) for each one hundred (100) sq. ft. of gross floor area

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Motel, Hotel or other Commercial Lodging Establishments	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee, plus extra spaces for dining rooms, ballrooms, or meeting rooms based upon one space for every two occupants based on maximum occupancy load
Motor Vehicle Sales & Service Establishments, Trailer Sales & Rental, Boat Showrooms	One (1) for each four hundred (400) sq. ft. of gross floor area of sales room
Open Air Business	One (1) for each six hundred (600) sq. ft. of lot area
Restaurant, Carry-Out	One (1) for each four hundred (400) sq. ft. of gross floor area
Retail Stores, except as otherwise specified herein	One (1) for each four hundred (400) sq. ft. of gross floor area
Shopping Center or Clustered Commercial	One (1) for each four hundred (400) sq. ft. of gross floor area
Auto Body Shop	Two (2) for each service bay
Auto/Truck Sales	One (1) space for each five hundred (500) sq. ft. of gross floor area for automobile sales
Cocktail Lounges & Taverns	One (1) space for each seventy-five (75) sq. ft. of gross floor area
Health Spas, Gymnasiums & Health Clubs	Ten (10) for each club of spas plus one (1) space for each two hundred (200) sq. ft. of gross floor area in excess of one thousand (1,000) gross sq. ft.

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<b>OFFICES</b>	
Banks, Savings & Loan Offices	One (1) for each four hundred (400) sq. ft. of gross floor area
Business Offices or Professional Offices except as indicated in the following item, but including courthouses and governmental offices	One (1) for each four hundred (400) sq. ft. of gross floor area
Medical or Dental Clinics, Professional Offices of Doctors, Dentist or similar professions	One (1) for each four hundred (400) sq. ft. of gross floor area
<b>INDUSTRIAL</b>	
General Manufacturing Establishments	One (1) space for every six hundred and fifty (650) sq. ft. of gross floor area, plus one (1) space per each three hundred fifty (35) sq. ft. of office space
Light & Limited Manufacturing	One (1) space for every five hundred (500) sq. ft. of gross floor area, plus one (1) space per each three hundred fifty (350) sq. ft. office, sales or similar space
Research & Development	One (1) space for every five hundred (500) sq. ft. of gross floor area plus one (1) space per each four hundred (400) sq. ft. of office, sales or similar space
Warehousing	One (1) space for every two thousand (2,000) sq. ft. of gross floor area

- J. Required Off-Street Loading Berths: In all districts every building, or part thereof, hereafter erected, which is to be occupied by manufacturing, storage, warehouse, group of stores, or other use similarly requiring the receipt of distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such buildings, off-street loading spaces in relations to floor area as follows:

5,000 to 20,000 square feet	1 space
20,000 to 50,000 square feet	2 spaces
50,000 to 100,000 square feet	3 spaces

One additional space for each additional 100,000 square feet or part thereof; provided that:

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1. Each loading space shall be at least twelve (12) feet in width, forty four (44) feet in length, and have a clearance of fourteen feet above grade.
  2. Such space may occupy all or any part of any required yard or court space, except the front yard.
- K. Increased Parking: When the floor area, dwelling units, or increase in the number of employees, or other unit of measure employed to determine off-street parking requirements shall be increased it shall be the duty and obligation of the owner and occupant of such residence, business or other use to provide additional off-street parking space of sufficient area. Such parking space may be on the same lot or lots within the main building or within a maximum distance of three-hundred fifty (350) feet from any such lot, whichever may have been originally required under this Ordinance. All such parking spaces herein required shall be surfaced as provided below.
- L. Surfacing:
1. Purpose: After public notice and hearing before the City of Fennville Planning Commission, the City has determined that in order to protect and promote the public health, safety and general welfare of residents of this City and the physical environment within the City, it is necessary to provide minimum construction and maintenance standards for driveways and parking areas. Specifically, the purpose of this Ordinance is to prevent washout from unpaved driveways and parking areas from obstructing storm sewers and catch basins and thereby creating drainage problems, and to provide safe access to areas serviced by such driveways and parking areas.
  2. Surfacing Requirements: Except as otherwise provided in this subsection, all parking spaces in every Zoning District and any driveway accessing such parking spaces shall be paved with concrete or bituminous material in accordance with plans approved by the City Engineer. Such concrete pavement shall be a minimum thickness of six (6) inches. Any bituminous paving shall be a minimum thickness of two (2) inches, or shall have a triple sealcoat and shall be placed upon a base of limestone or gravel a minimum thickness of six (6) inches. All paving and/or sealing shall be complete within a period of twelve (12) months after site plan approval. Off street parking for one (1) and two (2) family dwellings and any driveway accessing such parking shall be paved with concrete or bituminous material in such a manner which is adequate to prevent washout from obstructing storm sewers and catch basins, and in a manner which is adequate to provide safe access to dwellings in question. The off street parking areas for

one (1) and two (2) family dwellings and for any driveways accessing them shall be a minimum of eight (8) feet in width for their entire length and shall at a minimum extend between the public or private right of way and the required front setback line on each lot.

**18.8 REGULATION OF SIGNS** [amended 9-2-18]

- A. No permanent signs may be erected without a building permit except for the following signs which are exempt from the provisions of this Ordinance with respect to permits, heights, area and location, unless otherwise provided in this Section.
  - 1. Highway signs erected by the State of Michigan, County of Allegan or the City.
  - 2. Governmental use signs erected by governmental agencies to designate hours of activity or conditions of use for parks, parking lots, recreational areas, other public places, or for governmental buildings.
  - 3. Not more than (2) directional signs erected in conjunction with a public building, off street parking area, recreation space, or church provided that any such sign does not exceed nine (9) square feet in area and/or five (5) feet in height.
  - 4. Historic signs designating sites recognized by the State Historical Commission or similar agencies as centennial farms or historic landmarks, provided that any such sign does not exceed nine (9) square feet in area or five (5) feet in height.
  - 5. Placards posted to control or prohibit hunting or trespassing within the City, provided that any such sign does not exceed one (1) square foot in area or five (5) feet in height.
  - 6. Essential service signs denoting utility lines, railroad lines, hazards and precautions.
  - 7. Memorial signs or tablets which are either (1) cut into the face of a masonry surface or (2) constructed of bronze or other noncombustible material when located flat on the face of a building.
  - 8. Business signs and name plates less than two (2) square feet in area.
  
- B. The following Temporary Signs are exempt from obtaining a zoning or building permit. The signs shall not be illuminated.
  - 1. Subdivision signs not exceeding thirty two (32) square feet in area and the sign shall be removed when fifty (50%) percent or more of the lots in the subdivision are sold or after five (5) years, whichever first occurs.



2. One (1) construction sign per commercial project, not exceeding twenty-five (25) square feet in area, denoting architects, engineers, or contractors in conjunction with work under construction. One (1) sign for single and two family dwellings under construction; sign may not exceed nine (9) square feet in area. Signs shall be removed within fourteen (14) days after completion of construction.
3. Real estate signs; real estate sign or signs advertising one (1) lot shall not exceed twelve (12) square feet in area. Such signs shall be removed within fourteen (14) days after the lot or lots in question are no longer for sale, rent or lease.
4. Signs for political advertising; shall not exceed six (6) square feet in area. All political signs shall be removed within ten (10) days after the election or meeting with which they are concerned.
5. Temporary signs, other than the signs listed above, located in the B-1, B-2, CBD, OS-1, P, I-1 and the I-2 Zoning Districts, or for business operating under a special use permit in any Zoning District shall meet the following conditions:

1. The surface area shall not exceed sixteen (16) square feet.
2. Shall not exceed ten (10) feet in height.
3. Shall not violate any of the prohibitions in Section G below.
4. Shall not exceed more than two (2) times per calendar year, or more than thirty (30) total days per calendar year.

C. Setbacks for ground or pole signs

1. No sign shall be located in the public right-of-way.
2. Signs shall be located no less than 2 feet from the right-of-way or side property line; except for signs next to a residential use shall be located no less than 10 feet to the side property line.

D. Measurement of sign area and height

1. Where a sign has two (2) sides the area of the sign shall be taken as the area of one (1) side if the two (2) sides are of equal area.
2. The height of any sign shall be measured from the average grade. Ground sign shall have a maximum height of eight (8) feet from ground to top of sign. Pole signs shall have a minimum ground clearance of eight (8) feet from ground to the bottom of the sign.

E. Illumination regulations

1. Internal illumination shall be shielded in such a manner that it is not visible from the street or any adjoining property, and the light source shall be of a warm, non-glare type.
2. Lumen not to exceed 270 per square foot.

3. Internal illumination shall be static and stationary in nature. There shall be no movement appearance of movement, intermittent illumination, blinking at any interval, or changing color.
  4. External direct lighting shall be directed to not cause glare onto traffic or adjacent properties
- F. Electronic Displays. An electronic display is permitted as a secondary element to a ground, or wall sign.
1. An electronic display shall not consist of more than 50% of the total sign area.
  2. The sign shall only convey a single product or message at any one time.
  3. Except for the change from one display to the next, each individual sign shall be static. No element of the static display may move, flash, change color, dissolve or scroll, except to change from one display to the next.
  4. Displays may change not less than 6 seconds apart.
  5. Voids or burned bulbs shall be replaced within 10 (ten) business day.
- G. The signs listed below shall not be permitted, erected or maintained in any Zoning District.
1. Any sign which incorporates any manner of flashing, moving or rotating lights (although signs may be illuminated if the source of light is not visible).
  2. Any sign which has light strings, blinking lights, visible moving or revolving parts, or other similar devices used to attract the attention of the public.
  3. Any sign which is structurally unsafe or constitutes a hazard to safety or health, or which is not kept in good repair.
  4. Any sign which, by reason of its size, location, content, coloring, manner of illumination, or any other reason, may interfere with, obstruct the view of or be confused with an authorized traffic sign, signal or device.
  5. Any sign which obstructs visibility at street intersections.
  6. Any sign painted on or attached to any vehicle, trailer, farm or industrial machinery, airplane or railroad locomotive or car which is permanently fixed to the ground, whether or not operable, unless the sign pertains to the object to which it is attached (e.g. a “for sale” sign on a vehicle, indicating the vehicle is for sale). This provision shall not prohibit lettering or advertising on operable commercial vehicles which are not fixed to the ground.
  7. Any sign painted on a rock or any other natural feature.
  8. Any sign which is unlawfully installed, erected or maintained.

- H. RT, RM and RMH Districts. Pole signs not allowed.
  - 1. Ground signs shall not exceed thirty-two (32) square feet in area.
  - 2. Wall signs shall not exceed twelve (12) square feet in area.
  - 3. One (1) sign allowed per lot.
  
- I. AG, R-1 and R-2 Districts. Pole signs not allowed.
  - 1. A ground or wall sign shall not exceed twelve (12) square feet in area.
  - 2. One (1) sign per lot
  - 3. Lots located in the R-1 and R-2 Districts within the CCOD overlay district are subject to review by the Downtown Design Review Committee and the regulations of 13-A.6. 13-A.6 shall control over any conflicting regulations.
  
- J. B-1, B-2, CBD, OS-1, P, I-1 and I-2 Districts and businesses operating under a special use permit. Pole signs not allowed, except on properties with a gas station as the principle use.
  - 1. Lots within the CCOD overlay district are subject to review by the Downtown Review Committee and the regulations of 13-A.6. 13-A.6 shall control over any conflicting regulations.
  - 2. Any combination of four (4) signs; business, identifying, canopy/awning, wall, projecting, suspended, ground; are allowed per business.
  - 3. The combination of the signs shall not exceed one hundred (100) square feet in area.
  - 4. All businesses under this subsection may also display, in addition to the four (4) signs, directional signs or lettering displayed on or over individual entrance doors, exit doors and/or restrooms.
  
- K. Gasoline service stations
  - 1. Any combination of two (2) signs; pole, business, identifying, wall, ground.
  - 2. The combination of the signs shall not exceed one hundred (100) square feet in area.
  - 3. Directional signs or lettering displayed over individual entrance doors or bays.
  - 4. Customary lettering on or other insignia which are a structural part of a gasoline pump. Such signs shall be non-flashing and shall not in any manner constitute a traffic hazard with respect to adjacent streets or lots.

## ARTICLE XIX

### SPECIAL USES AND PLANNED DEVELOPMENTS

#### 19.0 SPECIAL USE PERMIT

Special Use Permits are required for proposed activities which are essentially compatible with other uses, signs or activities permitted in a zoning district, but which possess characteristics or locational qualities which require individual review. The purpose of this individual review is to ensure compatibility with the character of the surrounding area, with public services and facilities, with adjacent properties, and to ensure conformance with the standards set forth in this Ordinance.

##### A. Procedures

The following steps shall be taken when considering a proposed special use:

1. A special use permit application shall be filed by the applicant with the City Clerk along with the required site plan, fee, statement with supporting evidence to which proposed activity meets the criteria and any other pertinent information upon which the applicant intends to rely for approval.
2. The City Clerk shall review the application for completeness and forward the application, with his/her recommendation, to the Planning Commission for their review and consideration.
3. The City Clerk shall give public notice in a newspaper of general circulation in the City of official receipt of the special use permit application which:
  - a. Describes the nature of the special use.
  - b. Indicates the property in question.
  - c. States the time and place where the special use permit will be considered provided notice is not less than fifteen (15) days before application will be considered.
  - d. Indicates when and where written comments will be received concerning the request, and
  - e. Indicates that a public hearing of the proposed special use application may be requested by any property owner or occupant located within three-hundred (300) feet of the boundary of the property being considered before a decision is made on the application, if the permit requires a decision by the Planning Commission on discretionary grounds. In such case, notices shall be mailed to all

persons owning or occupying real property within three-hundred (300) feet of the property in question. An affidavit of such mailing shall be maintained by the City in the special use permit application file.

4. After review of the application and public hearing or written comments, if any, the Planning Commission shall approve, approve with conditions, or deny the permit based upon the standards of the special use as set forth in the appropriate use district. The decision on a special use permit application shall be incorporated in a statement of conclusion relative to the special use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

### **19.1 SPECIAL USE SITE DESIGN STANDARDS**

The following are specific regulations and design standards for uses listed as special uses, and shall be the minimum governing requirements for the protection of the public health, safety and general welfare of the community.

### **19.2 PLANNED UNIT DEVELOPMENTS**

#### **A. Intent and Purpose**

Planned Unit Developments are provided for by special use permit in order to allow for some degree of flexibility and innovation in the design of developing areas, as well as to allow for an efficient and aesthetic use of land. Based upon the standards and criteria contained in each Zoning District, the Planning Commission may review and recommend with conditions, a modification in bulk requirements in order to allow certain forms of development containing both privately owned sites and common property, and which are planned collectively as a single unit.

The Planned Unit Development section of this Ordinance is also provided in order that the growing demand for housing by young married couples, senior citizens and existing residents may be met by a greater variety of innovative housing types, and by the planning and design of structures with the benefit of cost effective land utilization in such development.

Due to changing lifestyle and transportation energy conditions, a limited amount of walkable commercial activity is now deemed to be compatible with residential neighborhoods. To that end, single, small, commercial structures are provided for within this section for areas more than 330 feet from the Central Business District zone.

#### **B. Residential Planned Unit Development**

A residential Planned Unit Development (PUD) shall be developed through the special use permit procedure. The granting of a special use permit for a PUD is permitted in all zoning districts.

1. **Site Eligibility:** The minimum area necessary to qualify as a PUD shall not be less than two (2) continuous acres of land. However, an owner of land less than the minimum required area may apply if the subject land is adjacent to a lawfully approved or constructed PUD having uses similar to the one proposed.
2. As a planned single unit, PUD's may be constructed in any combination of uses and structures (except mobile homes and principal commercial uses), provided that:
  - a. At least twenty-five (25%) percent of the total area is reserved for open space and natural drainage. This area may consist of land included as part of the required yard setbacks, roads, greenbelt areas drainage easements, open space or any recreational amenity; but shall not include any areas used for structures, or off-street parking and loading.
  - b. Full compliance with the provisions of this Ordinance and the tables/schedules contained here shall be met, unless waived by the City Commission.
3. **Density and Open Space Requirements for PUD's with Residential Uses.**
  - a. In addition to part b above, if a proposed PUD is residential, wholly or in part, that part of the PUD may not exceed a net residential density of one point five (1.5) times the maximum number of units allowed per acre under conventional single family lot sizes as shown in the Zoning District for that part of the total area. The number of dwelling units shall be rounded to the nearest whole number.
  - b. This density is granted, provided that at least twenty (20%) percent of the total area devoted to residential PUD development is reserved for open space and natural drainage by means of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land.
4. **Residential Density Bonuses:** Bonuses in net residential density or that area devoted to residential PUD development are permitted, provided that additional land is reserved and dedicated for open space as follows:
  - ❖ IF 20% of total area devoted to residences is reserved for open space.
  - ❖ THEN 1.50 X Conventional dwelling unit density is permitted.
  - ❖ IF 30% of total area devoted to residences is reserved for open space.
  - ❖ THEN 2.00 X Conventional dwelling unit density is permitted.

- C. Mixed Use Planned Unit Development – commercial/residential. Mixed use Planned Unit Developments shall be restricted to specific portions of the City and under limited conditions specified below:
1. Mixed Use Planned Unit Developments which are primarily either commercial or industrial, are only permitted in those areas of the City designated for “Transitional” uses in the Future Land Use Map contained within the City of Fennville Master Plan, or for areas that are both currently zoned AG – Agricultural and designated for Low-, Medium- or High-Density Residential use in the Future Land Use Map. “Primarily commercial or industrial” shall mean any development where more than ten (10) percent of the gross land area is proposed for either commercial or industrial use.
  2. The minimum land area required for a mixed use PUD shall be five (5) acres of contiguous property. A non-contiguous PUD shall only be permitted if each portion has five (5) contiguous acres of land.
  3. Mixed Use PUDs shall include residential uses on at least seventy-five (75) percent of the gross land area of the development and shall include defined open space(s) equal to ten (10) percent of the gross area. Such open space(s) shall protect existing wetlands and otherwise shall be a rectangular area with a length to width ratio of not more than 2 to 1. Such area shall be adjacent to a residential use area and may be considered part of the required internal buffer.
  4. Setbacks and buffers.
    - a) External: All commercial structures and parking for such structures shall be setback at least 100 feet from all external lot lines and such setback areas shall be screened from adjacent residential, open space or agricultural uses. Wherever possible such screen shall be existing woodlands. Setbacks for commercial uses from state highways and county primary roads shall be 100 feet from the right-of-way line unless the Planning Commission makes a finding-of-fact that a lesser setback would be sufficient to protect public health, safety and adjacent property values.
    - b) Internal: All commercial use structures shall be setback at least 50 feet from residential or open space areas within the PUD and buffered with adequate screening.
    - c) Spacing: No commercial use structure shall be located within 1,000 feet of another commercial use structure either internal to the PUD or external of the PUD.
    - d) All clustered residential structures (multi-family or row houses of three or more dwellings) shall be setback 50 feet from any external side or rear lot line abutting a residential district.

5. Limitations on Commercial Structures: No commercial use structure within a PUD shall exceed a maximum floor area of 1,500 square feet. All commercial structures shall have the general appearance of the adjacent residential structures.
6. Density: The Bonus Density calculations may be used in a mixed-use PUD. For density purposes, each commercial use shall count as one (1) residential unit. Cluster residential development is encouraged. Multi-family structures (3 or more dwelling units) may be included but each dwelling unit within the multi-family structure shall count as one (1) dwelling unit for density purposes.

D. Pre-application Conference with Planning Commission for Concept review

Prior to formal application submission for a proposed planned development, the developer/applicant shall be required to make a presentation to the Planning Commission in order to discuss initial design concepts and the application of said concepts to the land in question.

E. Standards and Considerations

In addition to complying with the standards for special use permits, the following special standards for a Clustered Residential Development or a PUD must be met:

1. Ownership: The tract of land may be owned, leased or controlled by a single person, partnership, corporation, cooperative association or association of individual owners (condominium). An application may be filed by the owner, jointly by the owners of all property to be included, or by a person, persons, corporation, or corporation with an option to buy said property. A plan, once approved, shall be binding.
2. Utilities: A Clustered Residential Development and a PUD shall have public community water and sewer provided by the developer, and must be approved by all legal state, county and local agencies (health, conservation, etc.) that are in authority and have jurisdiction. All utilities shall be placed underground.
3. Permitted Residential Housing Types and Uses: The following are considered eligible for inclusion in an application:

PRINCIPAL PUD USES AND STRUCTURES

- a. Residential PUD's:
  - Single family detached homes (excluding mobile homes)
  - Two family homes



- Single family attached homes
- Multiple family structure (apartments)
- Day care centers
  
- b. Mixed Use PUD's:
  - Single family detached homes
  - Single family attached homes
  - Two family homes
  - Multiple family structures
  - Professional offices limited to medical/dental clinics not to exceed 1,500 square feet of gross floor area (GFA).
  - Small retail stores not to exceed 1,500 square feet GFA, and limited to sale of groceries household goods and non-adult literature.
  - Small beauty/barber shops not to exceed 1,000 square feet GFA.

ACCESSORY USES AND AMENITIES

- f. Open space – passive and active.
  - g. Indoor and outdoor recreational facilities.
  - h. Carports.
  - i. Community building and meeting hall.
  - j. On-premise laundry facilities.
  - k. Churches and schools.
- 
4. Site plan design standards: Unless modified by the Planning Commission in writing at the time of application and approval, compliance with the following design standards is required to be shown on the site plan:
- a. Minimum yard requirements and building setbacks from all exterior property lines shall be thirty (30) feet.
  - b. Maximum building height three stories or thirty (30) feet (excludes antennas, steeples, spires, etc.).
  - c. Minimum spacing between detached buildings shall not be less than ten (10) feet.
  - d. All sensitive natural features such as wetlands shall remain unencumbered by residential buildings and structures.
  - e. Ingress and egress opening from the development onto a public and private road shall be limited to one per five-hundred (500) feet.

- f. Planted and maintained landscaped buffer areas of ten (10) feet in width are required along all exterior boundaries of the property to be developed.
  - g. Drainageways shall be protected by a public easement measured twenty-five (25) feet from the centerline of such drainageways.
  - h. Off-street parking is required at the rate of two (2) parking spaces per dwelling unit.
- 5. Facility Site Standards: The site standards for all individual uses and facilities as provided in this Ordinance, must be observed unless waived by the Planning Commission for any (or all) of the specific uses and facilities.
  - 6. Common property which is Privately Owned: Common property is a parcel or parcels of land, a privately owned road, or roads, together with improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property shall be private. When privately owned, arrangements must be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, service parking and recreational areas. This shall not be waived.
  - 7. Public Easement on Common Property which is Privately Owned: When common property exists in private ownership, the owners shall grant easements, over, under and through such property to the City as may be required for public purposes.
  - 8. After approval of a planned development, a site plan may be revised upon approval by the City Commission.
- E. Public Hearing  
A public hearing by the Planning Commission is required for all planned developments.

### **19.3 HOTEL, MOTEL, MOTOR COURT:**

- A. Public access to the principal business shall be located so as not to conflict with access to adjacent uses or not adversely affect traffic flow on adjacent streets. No more than two (2) driveway openings onto a major thoroughfare (M-89) shall be permitted.
- B. Where the front yard is used to provide access, a five (5) foot wide greenbelt shall be provided within the front yard, except for driveway openings.

- C. Each unit of commercial occupancy shall contain a minimum of two hundred and fifty (250) square feet of gross floor area.
- D. Where adjacent to a residential district, refer to Section 18.5, which shall apply.

**19.4 DRIVE-IN RESTAURANT:**

- A. The main and accessory buildings shall be set back a minimum of sixty (60) feet from any adjacent right-of-way line or residential property line.
- B. Driveway openings to the site shall be located at least seventy-five (75) feet from any intersection as measured from the intersecting right-of-way lines to the edge of said driveway.
- C. Screening as required in Section 18.5 shall control where lot lines abut any residential district.
- D. Parking may be located in the front, but not within the required front yard.

**19.5 CHILD CARE CENTERS, NURSERY SCHOOL, DAY NURSERIES, NOT INCLUDING FAMILY DAY CARE HOMES**

- A. No dormitory facilities permitted on premises.
- B. For each child cared for, there shall be provided, equipped and maintained, on the premises a minimum of one hundred and fifty (150) square feet of outdoor play area.
- C. The outdoor play area shall be fenced in or screened by a heavily planted greenbelt from any abutting residential uses, see 18.5 which shall apply.

**19.6 BOWLING ALLEY, INDOOR SKATING AND SIMILAR USES:**

- A. Driveway openings to the site shall be located at least seventy- five (75) feet from any intersection as measured from the intersecting street right-of-way lines to the edge of said driveway.
- B. The main and accessory buildings shall be located a minimum of one hundred (100) feet from any residential use.

**19.7 PRIVATE OPEN AIR BUSINESS, PERMANENT AND TEMPORARY: (TEMPORARY SALES OF CHRISTMAS TREES SHALL BE EXEMPTED)**

- A. Minimum lot area shall be 20,000 square feet.
- B. Minimum lot width shall be two hundred (200) feet.
- C. A five (5) foot fence or wall shall be constructed along the rear and sides of the lot capable of keeping trash, paper, and other debris from blowing off the premises, except as provided otherwise in this Ordinance.
- D. All open-air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.
- E. Unless specifically waived by the approval body or as designated by this Ordinance, a building of not less than five hundred (500) square feet of gross floor area shall be constructed on the premises for office use in connection with the subject open-air business.

- F. The Planning Commission may, to insure strict compliance with any regulation contained herein and required as a condition of the issuance of a permit for an open air business use, require the permittee to furnish a Surety Bond executed by a reputable surety company authorized to do business in the State of Michigan or in the sole discretion of the Planning Commission, a cash bond in an amount determined by the Commission to be reasonable and necessary to insure compliance hereunder. In fixing the amount of such bond, the Planning Commission shall take into account the size and scope of the proposed open air business use, current prevailing cost of rehabilitating the premises upon default of the operator of the use, estimated expenses to compel the operator to comply by Court Decree, and such other factors and conditions, as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
  
- G. In the case of indoor-outdoor garden nurseries:
  - 1. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
  - 2. All loading activity and parking areas shall be provided on the same premises (off-street).
  - 3. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

**19.8 CAR WASH ESTABLISHMENT:**

- A. Minimum lot size shall be twenty thousand (20,000) square feet.
- B. All washing activities must be carried on within a building.
- C. Vacuuming activities may be carried out only in the rear or side yard and at least fifty (50) feet distant from any adjoining residential use.
- D. The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. An alley shall not be used as maneuvering or parking space for vehicles being serviced by the subject facility.
- E. All floor drains from wash areas shall be equipped with sand traps before disposal into the on-site sewer.

**19.9 HOUSING FOR THE ELDERLY:**

- A. Minimum lot size shall be two (2) acres.
- B. Accessory services in common use may include, but not limited to, the provision of central dining facilities, indoor and outdoor recreational facilities, lounge areas and workshops.
- C. Each dwelling unit shall contain at least three hundred and fifty (350) square feet of area, not including kitchen and sanitary facilities.

- D. Development of site and structures shall be in accordance with U.S. Department of Housing and Urban Development Minimum Property Standards, Multifamily Housing, as it applied to housing for the elderly.

**19.10 AUTOMOBILE DISPOSAL AND JUNKYARDS:**

Shall be in accordance with the following, even though they may be more restrictive than the provisions of this ordinance:

- A. The site shall be a minimum of three (3) acres in size.
- B. There shall be a required yard setback of at least 100 feet from any public street and any lot line. The front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. Nothing shall be piled, stored or accumulated in any required yard area.
- C. A solid fence or wall at least eight (8) feet in height shall be provided along the setback lines of the entire site in order to screen said site from surrounding property. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously.
- D. All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area.
- E. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
- F. Wherever a side or rear lot line of such use abuts residential use or a residential zoning district, the required yard shall be doubled and shall contain plant material, grass and structural screens to effectively minimize the appearance of the installation.

**19.11 PRIVATE ROAD AND STREETS:**

- A. All building sites and parcels not fronting on a public street must be accessible by a private street. A private drive or street is required to have a minimum driveway right-of-way of sixty-six (66) feet and must be either owned or established by a driveway easement granted by the adjacent property owners.
- B. The layout of private streets in respect to their location, intersections, cul-de-sacs, etc., shall conform to the City's requirements for platted streets.
- C. The construction of the roadway shall conform to the City's standards for a local road.

- D. Vertical street alignments, street grades, horizontal curves, curb openings at intersection streets, etc., shall conform to the City standards for platted streets.

**19.12 RESERVED**

**19.13 MEDICAL OR DENTAL CLINIC:**

- A. Minimum lot size shall be twenty thousand (20,000) square feet.
- B. Maximum building coverage shall be thirty-five (35%) percent.

**19.14 OFFICE DEVELOPMENTS (TWO OR MORE STRUCTURES)**

In order to facilitate innovative and attractive design of office uses, office developments shall be subject to the following:

- A. Exterior walls of opposite or adjacent buildings shall be located no closer than one point five (1.5) times the height of the higher building wall, but in no case closer than fifty (50) feet.
- B. Buildings shall be so located and arranged that all structures have access to emergency vehicles.
- C. Maximum lot coverage upon lot shall not exceed sixty (60%) percent, including accessory uses and structures.
- D. The ratio of total floor area to lot area shall not exceed one point zero (1.0).

**19.15 PLANNED INDUSTRIAL PARKS**

In order to facilitate the growth of employment, to ensure a viable tax base for the City and to prevent the conflicts of incompatible industrial uses, planned industrial parks are permitted with site plan approval by the Planning Commission in the I-1 District.

An industrial park is hereby defined as a tract of land laid out in accordance with an overall plan which is designed and equipped to accommodate a cluster of wholesale commercial and industrial activities; providing them with all necessary facilities and services in an attractive park like surrounding.

Planned Industrial Parks shall be subject to the following:

- A. In addition to the required site plan, all proposed planned industrial parks (public and private) shall first have an overall plan detailing the development concept, the spatial arrangement of site and structures and phased implementation and development, thereof.
- B. Exterior walls of adjacent buildings shall be located no closer than one point five (1.5) times the height of the higher building wall, but in no case closer than fifty (50) feet.
- C. Maximum lot coverage shall not exceed fifty (50%) percent, including accessory buildings and structures.
- D. The ratio of total floor area to lot area shall not exceed one point zero (1.0).

**19.16 BED AND BREAKFAST FACILITIES:**

- A. The minimum lot size shall be ten-thousand (10,000) square feet with a minimum frontage of sixty (60) feet on a public street.
- B. A residence shall not have or be converted to more rental rooms than the number of bedrooms which exist at the time of enactment of this amendment.
- C. The minimum size of rental room shall be one-hundred twenty-five (125) square feet.
- D. The minimum size for manager/owner living quarters shall be four-hundred eighty (480) square feet.
- E. A common room or area for guest relaxation is required.
- F. The owner/manager must reside on the premises.
- G. One off-street parking space shall be provided for each rental room in addition to the two off-street spaces required for single-family dwellings. Parking shall be adequately screened from adjacent residentially developed or zoned property.
- H. Bathrooms must be furnished for guestrooms at a ratio of not less than one bathroom per two rental rooms.
- I. The premises (including corner lots) may be permitted one advertising sign not exceeding six (6) square feet in area.
- J. Approval by the Building Inspector is required prior to occupancy of the facility. Thereafter, the Building Inspector may conduct an annual compliance inspection.
- K. Approval of the Allegan County Health Department is required if other than a continental breakfast is served.
- L. Smoke alarms must be installed and maintained in all guest rooms.
- M. The use of the facility may be subject to any other reasonable conditions placed upon the use by the City Planning Commission or City Commission considered necessary to achieve the purpose of this Ordinance.

**19.17 PRIVATE CLUBS AND LODGES:**

- A. The lot shall be located so as to abut a collector street, secondary thoroughfare, or major thoroughfare with at least one (1) property line.
- B. Retail sales of food and beverages may be permitted to members and guests only and there shall be no externally visible sign of commercial activity.

**19.18 CONVALESCENT HOMES:**

- A. Minimum lot size shall be three (3) acres.
- B. The lot location shall be such that at least one (1) property line abuts a collector street, or major thoroughfare. The ingress and

egress for off-street parking areas for guests and patients shall be directly from said thoroughfare.

- C. The main and accessory building shall be setback at least seventy-five (75) feet from all property lines.
- D. The facility shall be designed to provide a minimum of fifteen hundred (1,500) square feet of open space for every bed used or intended to be used. This open space shall include landscaping and may include off-street parking areas, driveways, required yard setbacks and accessory uses.

**19.19 KENNELS:**

- A. Kennels shall be operated in conformance with all applicable Allegan County and State of Michigan regulations.
- B. For dog kennels, the minimum lot size shall be two (2) acres for the first three (3) dogs and an additional one (1) acre for each three (3) additional animals.

**19.20 HOSPITALS:**

- A. Minimum lot area shall be five (5) acres.
- B. The lot location shall be such that at least one (1) property line abuts a major thoroughfare. The ingress and egress for off- street parking facilities for guests and patients shall be directly from said major thoroughfare.
- C. Minimum main and accessory building setback shall be one hundred (100) feet.
- D. Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses by a structure or by a masonry wall of six (6) feet or more in height.
- E. No power plant or laundry shall be located nearer than three hundred (300) feet to any adjacent residential use.

**19.21 GASOLINE SERVICE STATIONS & FILLING STATION WITH CONVENIENCE STORES:**

- A. Minimum lot area shall be fifteen thousand (15,000) square feet.
- B. Minimum lot width shall be one hundred (100) feet.
- C. An automobile service station and filling station shall be Located not less than forty (40) feet from any right-of-way line and not less than twenty-five (25) feet from any side or rear lot line abutting residentially used property.
- D. Ingress and egress drives shall be separated by a minimum of thirty (30) feet.
- E. No more than one (1) curb opening shall be permitted for every fifty (50) feet of frontage (or major fraction (50%) thereof) along any street.
- F. A raised curb of six (6) inches in height shall be constructed along all street frontages at the right-of-way line, except for drive openings.
- G. The entire lot, excluding the area occupied by a building, shall be hard surfaced with concrete or a plant-mixed bituminous material except desirable



landscaped areas which shall be separated from all paved areas by a low barrier curb.

- H. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall have a minimum setback of 15 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or services while parked upon or overhanging any public sidewalk, street or right-of-way.
- I. When adjoining residentially used or zoned property, a five (5) foot masonry wall shall be erected and maintained along the connecting interior lot line, or if separated by an alley, then along the alley lot line.  
All masonry walls shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Such walls may be eliminated or gradually stepped down in height within twenty-five (25) feet of any right-of-way line, subject to approval by the City Commission.
- J. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a five (5) foot masonry wall and shall comply with requirements for location of accessory buildings. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles for any overnight period shall not exceed more than two (2) vehicles awaiting repairs for each indoor repair stall located within said premises and in no event shall the outdoor storage or parking of any such vehicle be permitted for a period exceeding five (5) days.
- K. The sale or rental of new or used cars, trucks, trailers, and any other vehicles on the premises shall be permitted only by approval of the City Commission under such terms and conditions as may be imposed by said council to insure adequate ingress and egress from said property and to insure adequate traffic safety.
- L. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties.

**19.22 CHURCHES, PRIVATE SCHOOLS, LIBRARIES, MUSEUMS AND COMMUNITY HALLS:**

- A. Minimum lot width shall be one hundred and fifty (150) feet.
- B. Minimum lot area shall be one (1) acre, for structures with an intended capacity less than one-hundred (100) persons. For structures with an intended capacity over two-hundred (200) persons there must be sufficient area to allow for the required parking on-site. Existing churches, schools, etc. on non-conforming lots may be expanded only if the off-street parking requirements are met for the entire capacity.
- C. For every foot of height by which the building, exclusive of spire, bell or clock towers, exceeds the maximum height limitation for the district, an additional (to the minimum) foot of front, side or rear yard setback shall be required.

- D. The lot location shall be such that at least one (1) property line abuts a collector street, or major thoroughfare. All ingress to the lot shall be directly onto said thoroughfare.
- E. Off-street parking shall be prohibited within the required front yard setback area.

**19.23 DRY CLEANING PLANTS AND LAUNDRIES, NOT INCLUDING OUTLET DISTRIBUTION FACILITIES:**

- A. Minimum lot area shall be one (1) acre.
- B. Underground storage tank installation or removal shall be pursuant to Michigan Department of Environmental Quality regulations.
- C. The storage and transportation of flammable and combustible liquids shall be in accordance with the Michigan State Fire Safety Board.

**19.24 VETERINARY HOSPITALS AND CLINICS:**

- A. Minimum main and accessory building setback shall be one hundred (100) feet from all lot lines.
- B. All principal use activities shall be conducted within a totally enclosed building.

**19.25 AUTOMOBILE BUMP SHOPS, RUSTPROOFING OR PAINT SHOPS:**

- A. Outside storage or parking of disabled, wrecked or dismantled vehicles for any overnight period shall not exceed more than two (2) vehicles awaiting service for each indoor repair stall located on said premises and in no event shall the outdoor storage or parking of any such vehicle be permitted for a period exceeding five (5) days.
- B. When adjoining residentially used or zoned property, a five (5) foot high fence or planting strip shall be erected and maintained along the connecting interior lot line.
- C. No sale of used cars or any other vehicles on the premises may be permitted unless the operation meets the approval of the City Commission after having received a recommendation from the Planning Commission.

**19.26 DWELLING UNIT CONVERSION:**

The provisions of this Section allows for the possibility of converting a single-family dwelling (within an existing structure) to a two-or three-family dwelling in the RT District, provided that the conversion be in conformance with the standards and procedures set forth herein.

- A. Dwelling unit conversion defined – A dwelling unit conversion is defined as the process in which the owner of a single-family dwelling located in the RT District may apply for conversion of said dwelling into a greater number of dwelling units than existed in the dwelling prior to conversion. Consideration of the application shall be in accordance with the procedures and set forth herein.

- B. All applications for dwelling unit conversion as provided herein, shall be reviewed on the basis of whether or not the application and proposed use conforms with the following standards:
- a. The conversion will not be detrimental to the neighborhood; and
  - b. The proposed conversion shall add no more than two (2) apartments to the existing dwelling, and the maximum number of bedrooms per additional dwelling unit shall not exceed two (2); and
  - c. Conversion of any dwelling unit will not result in leaving a dwelling unit whose minimum gross floor area per unit is less than five hundred (500) square feet for an efficiency unit, six hundred (600) square feet for a one bedroom unit, and seven hundred fifty (750) square feet for a two bedroom unit; and
  - d. The owner agrees that all construction and maintenance of the structure and grounds will be in accordance with and conform to all City construction codes, including but not limited to the Building Code, Electrical Code, Plumbing Code, Mechanical Code, Housing Code; and
  - e. Each dwelling unit shall be self-contained consisting of complete lavatory and kitchen facilities and a separate living area; and
  - f. Each dwelling unit shall provide adequate light and ventilation pursuant to the Housing Code; and
  - g. Stairways leading to the second or any higher floor shall be located within the walls of the building, wherever practical, and stairways and fire escapes shall otherwise be located on the rear wall in preference to either side wall and in no case on a front wall or side wall facing a street; and
  - h. One (1) of the units must be owner occupied.
  - i. Except as may be necessary for purposes of safety in accordance with the preceding paragraph, there shall be no major structural change in the exterior of the building in connection with the conversion, and after conversion of the building shall retain substantially the same structural appearance it had before the conversion; and
  - j. There shall be provided two (2) parking spaces per dwelling unit. The location of the off-street parking shall be compatible to the immediate neighborhood. Where possible, parking should be enclosed or screened from view from any public street. In no case shall an application be approved where parking is intended to be located in the front yard of any dwelling unit for which conversion has been applied for.

C. Building Permit and Certificate of Occupancy

If the application is approved, the applicant shall obtain a building permit from the City prior to the construction associated with conversion. After all construction or reconstruction has been completed, the applicant shall

obtain a Certificate of Occupancy prior to the rental or use of the additional dwelling units. Failure to comply with the provisions of this Section will constitute a violation of the Zoning Ordinance.

**19.27 COMMERCIAL AND SERVICE ESTABLISHMENTS OF AN “ADULT” NATURE**

Commercial and service establishments of an “Adult” nature as listed and defined herein and subject to the following conditions: In order to prevent undesirable concentration of such uses, the following uses and activities shall not be located within one-thousand (1,000) feet of two other such uses nor within one-hundred (100) feet of any residentially zoned district as measured along a line forming the shortest distance between any portion of the respective properties of the existing and proposed following specified uses and activities and between such uses and the adjoining residentially zoned district.

- a. Adult bookstore.
- b. Adult motion picture theater.
- c. Adult mini motion picture theater.
- d. Adult smoking or sexual paraphernalia store.
- e. Massage parlor.
- f. Host or hostess establishments, offering socialization with a host or hostess for consideration.
- g. Pool or billiard hall.
- h. Open dance hall.
- i. Pawnshop.
- j. Tavern or cabaret providing live or projected entertainment where intoxicating liquors may or may not be sold for consumption on the premises. “Projected entertainment” shall not include standard television reception.
- k. Pinball or video game arcade or establishment.
- l. Sauna, hot tub or other similar health or body improvement or enjoyment enterprises.
- m. Any combination of the above listed uses.

B. For the purpose of interpreting the application of the foregoing limitations on certain business locations, the following terms or designations shall have the following meanings:

1. Adult bookstore: an establishment having 20% of its floor space or sales volume, whichever is lesser, or in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as hereinafter defined, or and establishment with a segment or section devoted to the sale or display of such material.
2. Adult mini motion picture theater: an enclosure with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by and emphasis on matter depicting, describing or relating

- to “specified sexual activities” or “specified anatomical areas”, as hereinafter defined for observation by patrons therein.
3. Adult motion picture theater: an enclosure with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing relating to “specified sexual activities” or “specified anatomical areas” as hereinafter defined for observation by patrons therein.
  4. Massage parlor: an establishment where persons conduct as a principal activity or permit to be conducted or engaged in, massages of the human body, or parts thereof, by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means or preparations to provide relaxation or enjoyment to the recipient. This does not include sports massage or therapy performed by a certified therapist.
  5. Sauna, hot tub or other similar health or body improvement enterprises: establishment where saunas, hot tubs, whirlpools, sun lamps and similar body relaxing, soothing or improving facilities are available for male and female customers with or without supervision or participation by employees or independent contractors of the business
  6. Specified sexual activities:
    - a. Acts of human masturbation, sexual intercourse or sodomy.
    - b. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.
    - c. Human genitals in a state of sexual stimulation or arousal
  7. Specified anatomical areas:
    - a. Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola
    - b. Human males genitals in a discernibly turgid state, even if completely and opaquely covered.

## **19.28 WIRELESS COMMUNICATION TOWERS & ANTENNAS**

### **A. BACKGROUND**

1. The City has received or expects to receive requests to site wireless communications towers and antennas within its boundaries.
2. The City finds that it is in the public interest to permit the siting of wireless communications towers and antennas within its boundaries.
3. It is the City’s intent to permit the siting of wireless communications towers and antennas within its boundaries.
3. It is the City’s intent to protect and promote the public health, safety and welfare by regulating the siting of wireless communications towers and antennas within its boundaries.

B. PURPOSE AND GOALS

This Article's purpose is to establish general guidelines for siting wireless communications towers and antennas. This Article's goals are to: (A) protect residential areas and land uses from potential adverse impacts of towers and antennas; (B) encourage the location of towers and antennas in non-residential areas; (C) minimize the total number of towers and antennas throughout the City; (D) promote the joint use of existing tower sites rather than construction of additional towers; (E) promote the location of towers and antennas in areas where the adverse impact on the City is minimal; (F) promote the configuration of towers and antennas to minimize their adverse visual impact through careful design, siting, landscape screening and innovative camouflaging techniques; (G) promote telecommunications services to the City which are quick, effective and efficient; (H) protect the public health and safety of the City and its residents; and (I) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. To further these goals, the City shall consider its Land Use Plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

C. DEFINITIONS

For the Purpose of this Article only, the following terms shall have the following meanings:

1. Alternative Tower Structure: Man made trees, clock towers, bell steeples, church spires, light poles, elevator bulkheads and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
2. Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless communications signals or other communication signals.
3. FAA: The Federal Aviation Administration.
4. FCC: The Federal Communications Commission
5. Height: When referring to a tower or other building or structure upon which an antenna is mounted, the distance measured from the finished grade of the parcel at the center of the front of the building or structure to the highest point on the tower or other building or structure, including the base pad and any antenna.
6. Lattice Tower: A support structure constructed of vertical metal struts and cross braces, forming a triangular or square structure which often tapers from the foundation to the top.
7. Pre-Existing Towers and Pre-Existing Antennas: Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the amendment to the

Ordinance adding this Chapter, or any tower or antenna for which no building and/or special use permit was required, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not yet expired.

8. Tower: Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting (i.e. without guy wires or other external means of support) lattice towers, guyed towers, or monopole towers, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals. The term includes the structure and any support for the structure.

D. APPLICABILITY

1. New Towers and Antennas: All new towers and new antennas in the City shall be subject to this Article, except as otherwise provided in this Section.
2. Amateur Radio Station Operators Receive Only Antennas; Television Antennas: This Article shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally licensed amateur radio station or is used exclusively for receive only antennas, or is used for television reception.
3. Pre-Existing Towers and Antennas: Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this Article other than the requirements of Section 19.28, C., 7, and the general requirements of this Ordinance concerning pre-existing structures (i.e. Section 4.10).

E. GENERAL REQUIREMENTS

1. Principal or Accessory Use: Antennas and towers may be considered either principal or accessory uses. A different existing use of or on the same lot shall not preclude the installation of an antenna or tower on that lot.
2. Lot Size: Even though antennas or towers may be located on leased portions of a lot, the dimensions of the entire lot shall be used to determine if the installation of a tower or antenna complies with the regulations of the applicable zoning district, including but not limited to setback requirements, lot coverage requirements and other such requirements.
3. Inventory of Existing Sites: Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the City or within one (1) mile of the City border, including specific information about the location, height and design of each tower or antenna.

4. Tower Finish: Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
5. Tower Site: At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
6. Antenna Color: An antenna and its supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
7. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
8. State or Federal Requirements: All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency or the State or Federal Government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised and applicable standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to comply with such revised and applicable standards and regulations shall constitute grounds for the City to seek a court order, authorizing the City or its designee to remove the tower or antenna at the owner's expense.
9. Building Codes; Safety Standards: The owner of a tower or antenna shall ensure its structural integrity by maintaining it in compliance with standards contained in applicable state or local building codes and applicable standards published by the Electronic Industries Association or any similar successor organization, as amended from time to time. If the City suspects that a tower or an antenna does not comply with such codes and standards and constitutes a danger to persons or property, then the City may proceed under applicable State of Michigan law (i.e. Michigan Public Act 144 of 1992, as amended, or any successor statute) or common law to bring the tower or antenna into compliance or to remove the tower or antenna at the owner's expense.
10. Measurement: Tower setbacks and separation distances shall be measured and applied to facilities located in the City without regard to municipal and county jurisdictional boundaries.



11. Not Essential Services: Towers and antennas shall be regulated and permitted pursuant to this Article. They shall not be regulated or permitted as essential services, public utilities or private utilities.
12. Franchises: Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City have been obtained; they shall file a copy of all required franchises with the Zoning Administrator.
13. Signs: No signs or advertising shall be allowed on an antenna or tower. However, the tower owner may post a sign designating a person to contact in an emergency, together with the person's telephone number and address.
14. Metal Towers: Metal towers shall be constructed with a corrosion-resistant material.
15. No Interference: Towers shall not interfere with television or radio reception on surrounding properties.
16. Paving Requirement: All parking and drive areas must be paved as provided in this Ordinance.

F. SPECIAL USE PERMITS

1. General: The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission.
  - a. If the tower or antenna is not a permitted use under Section 4.6 of this Ordinance, then a special use permit shall be required for the construction of a tower or the placement of an antenna in any zoning district.
  - b. Applications for special use permits under this Section shall be subject to the general procedures and requirements of this Ordinance for special uses, except as modified in this Section.
  - c. In granting a special use permit, the Planning Commission may impose such conditions that the Planning Commission concludes are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
  - d. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer. Such an engineer shall certify that the tower or antenna will be structurally sound and will comply with all applicable building and other construction code requirements.

2. Processing Special Use Applications:
  - a. Information Required: Applicants for a special use permit for a tower or an antenna shall submit the following information, in addition to any other information required by this Ordinance.
    - (i) A scaled site plan showing the location, type and height of the proposed tower or antenna; on site land uses and zoning; adjacent land uses and zoning (even if adjacent to another municipality); Land Use Plan classification of the site and all properties within the applicable separation distances set forth in Table 2 in this Article; adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed tower or antenna and any other structures; topography; parking; and other information deemed necessary by the Zoning Administrator or Planning Commission to assess compliance with this Ordinance.
    - (ii) Legal description of the lot and the leased portion of the lot (if applicable), together with a copy of the deed or lease pertaining to that lot.
    - (iii) The setback distance between the proposed tower or antenna and the nearest dwelling, platted residentially zoned properties and un-platted residentially zoned properties.
    - (iv) The separation distance from other towers or antennas described in the inventory of existing sites submitted pursuant to Section 19.28,E.3 the type of construction of those existing towers or antennas, and the owners/operators of those existing towers and antennas, if known.
    - (v) A landscape plan showing specific landscape materials.
    - (vi) Method of fencing, finished color and, if applicable, the method of camouflage and illumination.
    - (vii) A description of compliance with the requirements of this Article, and of all applicable federal, state, county or City laws, regulations and ordinances.
    - (viii) A notarized statement by the applicant for a tower, indicating if the tower will accommodate collocation of additional antennas for future users.
    - (ix) A description of services to be provided by the proposed new tower or antenna, and any alternative

- ways to provide those services without the proposed new tower or antenna.
- (x) A description of feasible location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower or antenna is erected.
- b. Factors Considered in Granting Special Use Permits for Towers or Antennas. In addition to any other standards specified in this Ordinance for considering special use permit applications; the Planning Commission shall consider the following factors in determining whether to issue a special use permit under this Article.
- [i] Height of proposed tower or antenna;
  - [ii] Proximity of the proposed tower or antenna to residential structures and residential district boundaries;
  - [iii] Nature of uses on adjacent and nearby properties;
  - [iv] Surrounding topography;
  - [v] Surrounding tree coverage and foliage;
  - [vi] Design of the proposed tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - [vii] Proposed ingress and egress to the proposed tower or antenna;
  - [viii] Availability of suitable existing towers or antennas, alternative tower structures, other structures, or alternative technologies not requiring the use of towers or antennas or other structures, as discussed below in this Section;
  - [ix] The effect of the proposed tower or antenna the conforming properties and the surrounding neighborhood; and
  - [x] Whether or not the proposed tower or antenna is located in zoning district or on structures where the City intends at least most towers and antennas in the City to be located, as subsequently described in this Section.

c. City Intentions Concerning the Location of Most if Not All Towers and Antennas. The City intends that most if not all towers and antennas will be located as described below.

[i] The City encourages the location of towers and antennas, including the placement of additional buildings or other supporting equipment used in connection with them, in the B-2, I-1 or I-2 Zoning Districts.

[ii] The City encourages the location of antennas on existing structures or towers consistent with the terms of subsections (a) and (b) below.

[a.] The City encourages antennas on existing structures which are towers, as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight (8) or more dwelling units, provided the antenna does not extend more than thirty (30) feet above the highest point of the structure;

[b.] The City encourages antennas on existing towers, provided that:

▶ A tower which is modified or reconstructed to accommodate the collocation of one (1) or more additional antennas, shall be of the same tower type as the existing tower or monopole;

▶ A tower which is modified or reconstructed to accommodate the collocation of additional antennas may be modified or rebuilt to a taller height, not more than once per tower and not to exceed thirty (30) feet over the towers existing height (this additional height shall not require an additional distance separation per Table 2 of this Article; rather the tower's pre-modification height shall be used to calculate such distance separations); and

▶ A tower which is modified or reconstructed to accommodate the collocation of an additional antenna may be moved on site within fifty (50) feet of its existing location, provided that only one (1) tower remains on the lot (a relocated tower shall continue to be measured from its original location for purposes of calculating separation distances between towers pursuant to Table 2 of this Article).

► The City encourages the location of new towers in non-residential zoning districts, other than the B-1, I-1 or I-2 Zoning Districts, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; and provided the tower is no more than ninety (90) feet in height if for a single user, no more than one hundred twenty (120) feet in height if for two (2) users, and no more than one hundred fifty (150) feet in height if for three or more users.

- d. Availability of Suitable Existing Towers, Antennas, Alternative Tower Structures, Other Structures, or Alternative Technology. No new tower or antenna shall be permitted unless the applicant demonstrates to the Planning Commission that no existing tower, antenna, alternative tower structure or alternative technology can provide the services sought by the applicant without the erection of the applicant's requested new tower or antenna. Evidence that no existing tower, antenna, alternative tower structure or alternative technology can provide the services sought by the applicant may consist of the following.
- (i) The applicant could demonstrate that no existing towers, antennas, alternative tower structures, alternative technology or other structures are available within the geographical area which meet the applicant's engineering requirements.
  - (ii) The applicant could demonstrate that existing towers, antennas, alternative tower structures or other structures are not of sufficient height to meet the applicant's engineering requirements, and that their height cannot be increased to meet such requirements.
  - (iii) The applicant could demonstrate that existing towers, alternate tower structures, or other structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment, and that their strength cannot practically be increased to provide that support.
  - (iv) The applicant could demonstrate that the proposed antenna would cause electromagnetic interference with existing towers or antennas, or that existing towers or antennas would cause interference with the applicant's proposed antenna.

- (v) The applicant could demonstrate that the costs to collocate an antenna exceed the costs of erecting a new tower or antenna.
  - (vi) The applicant could demonstrate that there are other limiting factors that render existing towers, antennas, alternative tower structures and other structures unsuitable.
  - (vii) The applicant could demonstrate that an alternative technology that does not require the use of towers or antennas is cost prohibitive or unsuitable.
- e. Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required.
- (i) Towers must be set back a distance equal to at least seventy five percent (75%) of the height of the tower from any adjoining lot line. The setback is measured from the perimeter or outside edge of the base of the tower.
  - (ii) Guys and accessory buildings must satisfy the minimum setback requirements for the applicable zoning district.
- f. Separation. The following separation requirements shall apply to all towers for which a special use permit is required.
- (i) Separation of towers from off-site uses/designated areas.
    - [a.] Tower separation shall be measured from the perimeter or outside edge of the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1. The separation distance shall be measured by drawing or following a straight line between the base of the proposed tower and the off-site uses or designated areas, pursuant to a site plan of the proposed tower.
    - [b.] Separation requirements for towers shall comply with the minimum standards (listed in linear feet) established in Table 1.

**TABLE 1**

<b>Off-Site Use/Designated Area</b>	<b>Separation Distance<sup>2</sup></b>
Single-family or two family dwelling units <sup>1</sup>	200 feet or three times the height of the tower, whichever is greater
Unimproved R-1, R-2 and RT land which is platted, has preliminary subdivision plan approval which is not expired, or has PUD approval which is not expired	200 feet or three times the height of the tower, whichever is greater
Other unimproved residentially zoned lands <sup>3</sup>	100 feet or the height of the tower, whichever is greater
Existing multiple family dwelling units	100 feet or the height of the tower, whichever is greater
Non-residentially zoned lands or non-residential uses, if not covered by any of the above categories	None; only setbacks established by this Ordinance apply

<sup>1</sup>Includes modular homes and mobile homes used for living purposes

<sup>2</sup>Separation measured from base of tower to closest building setback line

<sup>3</sup>Includes any unplatted residentially zoned properties without a preliminary subdivision plan or development approval and any “RM” Zoning District land.

(ii) Separation distances between towers

- [a.] Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan of the proposed tower.
- [b.] Separation distances between towers shall comply with the minimum distances (listed in linear feet) established in Table 2.

**TABLE 2**

**EXISTING TOWERS – TYPES**

Proposed Tower	Lattice	Guyed	Monopole 75 Feet in Height or Greater	Monopole Less than 75 Feet in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750

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Monopole 75 Feet in Height or Greater	1,500	1,500	1,500	750
Monopole Less than 75 Feet in Height	750	750	750	750

- g. Security fencing. Towers for which a special use permit is required shall be enclosed by security fencing not less than six (6) feet in height. The towers shall also be equipped with appropriate anti-climbing devices.
- h. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required. The required landscaping shall be maintained for the duration of the special use permit.
  - (ii) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property then used for dwellings, one-family, two-family or multiple family, or included in a residential zoning district. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
  - (iii) Existing mature tree growth and natural land forms on site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the Planning Commission may include that natural growth around the property perimeter may be a sufficient buffer.

G. ACCESSORY UTILITY BUILDINGS. All utility buildings and structures accessory to a tower or antenna shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district where the tower or antenna is located. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

H. REMOVAL OF ABANDONED ANTENNAS AND TOWERS. Notwithstanding anything to the contrary elsewhere in this Ordinance, any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the ninety (90) days shall be grounds for the City to proceed under applicable State of Michigan law to remove the tower or antenna at the owner’s expense. If there are two



(2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

- I. EXPANSION OF NON-CONFORMING USE. Notwithstanding any other provisions of this Ordinance to the contrary, towers that are constructed and antennas that are installed in accordance with this Article shall not be deemed to be the expansion of a non-conforming use or structure.

## ARTICLE XX

### SITE CONDOMINIUMS OR CONDOMINIUM SUBDIVISIONS

#### 20.0 PURPOSE

The purpose of this Section is to set forth the standards for review of the site condominiums or condominium subdivisions in all Zoning Districts, to provide adequate standards for the master deed, deed restrictions, utility systems, public and private roads, site layout and design, and to achieve compliance with all regulations of the Condominium Act and this Ordinance.

#### 20.1 CONDOMINIUM DEFINITIONS

**CONDOMINIUM DOCUMENTS** – The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws, which affect the rights and obligations of a co-owner in the condominium.

**CONDOMINIUM LOT** – The land in a condominium unit, together with land in the adjacent and appurtenant limited common element, if there is such a limited common element.

**CONDOMINIUM SUBDIVISION PLAN** – The drawings and information prepared in accordance with Section 66 of the Condominium Act.

**CONDOMINIUM UNIT** – The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

**CONSOLIDATING MASTER DEED** – The final amended master deed for a contractible or expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

**CONTRACTIBLE CONDOMINIUM** – A condominium project containing condominium units some or all of which were occupied before the filing of a notice of taking reservations under Section 7 of the Condominium Act.

**EXPANDABLE CONDOMINIUM** – A condominium project to which additional land may be added in accordance with this Ordinance and the Condominium Act.

**MASTER DEED** – The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by Section 8 of the Condominium Act.

NOTICE OF PROPOSED ACTION – The notice required by Section 71 of the Condominium Act, to be filed with the City of Fennville and other agencies.

SITE CONDOMINIUM – A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed.

## **20.2 APPROVAL REQUIRED**

Pursuant to authority conferred by Section 141 of the Condominium Act, preliminary and final site plans for all site condominiums or condominium subdivisions shall be approved by the Planning Commission and City Commission. In determining whether to approve a site plan for a site condominium, the Planning Commission and City Commission may consult with the Zoning Administrator, City Attorney, City Engineer and others as deemed appropriate by the Planning Commission and City Commission regarding the adequacy of the master deed, deed restrictions, utility systems and roads, site layout and design, and compliance with all requirements of the Condominium Act and this Ordinance.

## **20.3 GENERAL REQUIREMENTS**

- A. The provisions of Article XVIII shall also apply to all Site Condominiums processed under this Article XX, except where the provisions included in Article XVIII are in conflict with provisions of Article XX or which are in conflict with Public Act 59 of 1978, as amended, “The Condominium Act,” in which case(s) the provisions of Article XX and The Condominium Act shall prevail.
- B. No construction, grading, work or other development shall be done on a site once the site plan review and application has been filed until a final site plan has been approved, except with the express permission of the Planning Commission and City Commission. No permits for erosion control, building construction, grading, or installation of water or sanitary sewerage facilities shall be issued for property in a site condominium development until a final site plan therefore has been approved by the Planning Commission and City Commission and is in effect. This requirement shall include contractible, conversion, and expandable site condominiums.
- C. If a building, structure, or use to be placed on a condominium lot which requires site plan approval under Article XIX herein, a site plan for that building, structure, or use shall be approved in accordance with Article XVIII herein, before a certificate of zoning compliance may be issued.
- D. The city of Fennville Planning Commission and City Commission have the authority to review and approve or deny preliminary and final site plans for site condominiums.

- E. Preliminary and final site plans shall be submitted, reviewed, and approved or denied in accordance with Article XVIII and Article XX, provided, however that preliminary and final site plans shall not be combined for site condominiums. A dimensionally stable copy of the as-built drawings shall be submitted to the City Clerk and a second dimensionally stable copy shall be recorded with the Allegan County Register of Deeds.
- F. Each condominium unit shall be located with a zoning district that permits the proposed use.
- G. For the purposes of this Ordinance, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located. In the case of a site condominium containing single-family detached dwelling units, not more than one dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium with any other principal structure or use, except in a PUD district. Required yards shall be measured from the boundaries of a condominium lot. Ground floor coverage and floor area ratio shall be calculated using the area of the condominium lot.
- H. Each condominium lot shall be connected to public water and sanitary sewer facilities, where available, or shall have a well, septic tank, and drain field approved by the County Health Department, where public water and sanitary sewer services are not available. The well, septic tank, and drain field serving a condominium lot shall be located within that lot, as described in the master deed, except in a PUD district, in which this requirement may be waived by the City Commission as part of its approval of the PUD rezoning petition/application.
- I. Relocation of boundaries between adjoining condominium lots, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made part of the bylaws and recorded as part of the master deed.
- J. Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made part of the condominium bylaws and recorded as part of the master deed.
- K. All information required by this Ordinance shall be updated and furnished to the Zoning Administrator until applicable certificated of zoning compliance have been issued, as provided in Article XXI, herein.

**20.4 PRELIMINARY SITE PLAN REQUIREMENTS**

- A. A preliminary site plan shall be filed for approval at the time of a Notice of Proposed Action is filed with the City of Fennville. In the event a Notice of Proposed Action regarding a site condominium is filed with the Clerk, the Clerk, upon receipt of the notice shall transmit the preliminary site plan drawings to the City Planning Commission and City Commission. However, no action is to be taken until the Planning Commission and City Commission review the site plan drawings.
- B. The preliminary site plan shall include all land that the developer intends to include in the site condominium project.
- C. The preliminary site plan shall include all information required in Article XVIII, herein, except in the case of a development that consists only of condominium lots and not buildings or other structures at the time a site plan application, the location and dimensions of condominium lots and all required yards, rather than individual buildings, shall be shown on the preliminary site plan.
- D. All items required in Section 18.1,B of Article XVIII are to be completed and presented at the time of the preliminary site plan submission.

**20.5 FINAL SITE PLAN REQUIREMENTS**

- A. A final site plan shall be filed for review for each phase of development shown on the approved preliminary site plan.
- B. A final site plan for any phase of development shall not be filed for review by the Planning Commission and City Commission unless a preliminary site plan has been approved by the Planning Commission and City Commission and is in effect.
- C. A final site plan shall include all information required by Section 66 of the Condominium Act, and the master deed and bylaws. The final site plan shall also include all information required by Section 18.1,C of Article XVIII, herein, except in the case of a development that consists only of condominium lots and not building or other structures at the time of site plan application, the location and dimensions of condominium lots rather than individual buildings, and required yards shall be shown on the site plan.
- D. The applicant shall provide proof of approvals by all County and State agencies required to review the condominium subdivision plan, including but not limited to the County Road Commission, County Drain Commissioner, County Health Department and the Michigan Department of Environmental Quality. The Planning Commission and City Commission shall not approve a final site plan until all County and State agencies required to review the condominium subdivision plan have approved that condominium subdivision plan.

**20.6 REVISION OF CONDOMINIUM SUBDIVISION PLAN**

If the condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission and City Commission before any building permit may be issued, where such permit is required.

**20.7 PUBLIC AND PRIVATE ROADS**

All roads within a site condominium shall be dedicated as public roads to the City of Fennville and shall be developed to the design, construction, inspection, and approval and maintenance requirements of the City of Fennville. Each condominium lot shall have frontage abutting a public road as required by the regulations of the particular zoning district in which the condominium lot is located. In the event that the City Commission refuses to accept dedication of a proposed road in an exclusively residential condominium, the applicant may apply to the City Commission for a permit to substitute a private road for the public road or any portion thereof, in accordance with the City of Fennville Public and Private Road Ordinance, and amendments thereto.

**20.8 AMENDMENTS TO MASTER DEED OR BYLAWS**

Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the Planning Commission and the City Commission before any building permit may be issued, where such permit is required. The Planning Commission and the City Commission may require its review of an amended site plan if, in their opinion, such changes in the master deed or bylaws require corresponding changes in the approved site plan.

**20.9 RELATION TO SUBDIVISION ORDINANCE**

All site condominiums shall conform to the plan preparation requirements, design, layout, improvement standards, and the financial guarantee requirements of the City of Fennville Subdivision Control Ordinance, (Ordinance No. 178), as amended, all of which are incorporated herewith by reference. The standards and requirements of the Subdivision Control Ordinance, including financial guarantees, which apply, to lots in a subdivision, shall also apply to condominium lots. Nothing in this section shall be construed as requiring a site condominium to obtain plat approval under the Subdivision Ordinance or the Subdivision Control Act.

**20.10 DEVELOPMENT AGREEMENT**

The Planning Commission and the City Commission may require, as a condition of approval, that the applicant enter into a development agreement with the Planning Commission and City Commission and the City of Fennville, incorporating the terms and conditions of final site plan approval, and record the same in the office of the Register of Deeds for Allegan County.

**20.11 ASSOCIATION AUTHORIZATION**

Any application for a building permit for construction to be located in a general common element shall include written authorization by the Condominium Association for the application.

**20.12 MONUMENTS**

Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines. No building permits shall be issued until monuments are set.

The Zoning Administrator may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year, on condition that the developer deposit with the City Clerk cash, a certified check, or an irrevocable bank letter of credit running to the City of Fennville, in an amount as determined from a form bid by a surveyor. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified. If the developer defaults, the City Commission shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans using the funds from the security deposit.

**20.13 EASEMENTS AND RIGHTS-OF-WAY**

Road rights-of-way shall be described separately from individual condominium lots and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing public utilities. The developer shall dedicate easements to the appropriate public authority for all public water, sanitary sewer and storm sewer drainage lines and appurtenances.

**20.14 DESIGN SPECIFICATIONS**

All improvements for public utilities and streets in a site condominium shall comply with the design specifications as adopted by the Fennville City Commission and any amendments thereto.

## ARTICLE XXI

### ADMINISTRATION AND ENFORCEMENT

#### 21.0 ZONING ADMINISTRATOR

The provisions of this Ordinance will be administered and enforced by the Zoning Administrator.

- A. Except as otherwise provided, the Zoning Administrator will administer and enforce this Ordinance.
- B. The Zoning Administrator will be designated by the City Commission for such term and subject to such conditions and at such rate of compensation as the City Commission may determine.

#### 21.1 ZONING PERMIT REQUIRED

- A. No person shall commence construction of any building or structure or make structural changes in any existing structure without first obtaining a zoning permit from the Zoning Administrator.
- B. The Zoning Administrator shall not issue a zoning permit for the construction, alteration, or remodeling of any structure until an application has been submitted showing that the proposed construction complies with all of the provisions of this Ordinance.
- C. A zoning permit will be issued when the Planning Commission, Zoning Administrator, Board of Appeals, or City Commission has approved an application under the terms of this Ordinance. Any property owner, developer, or applicant proposing any potential use or change of use of any lands within the City requiring a building permit will first need a zoning permit. Allowed uses not requiring review or approval by the above responsible parties will also require a zoning permit. No building permit will be issued, nor any construction activities initiated without the Zoning Administrator having issued and the applicant having received a zoning permit.
  - 1. Issuance of zoning permit: Within 10 working days after receipt of a completed request for a building permit, the Zoning Administrator will either:
    - a. Issue a zoning permit if the proposed work is in conformance with the terms and provisions of this Ordinance, or
    - b. Deny issuance of a zoning permit and state the reason(s) or cause(s) for such denial in writing.

In each case, the zoning permit or the written reason(s) or cause(s) for denial will be transmitted to the owner or his agent.



- D. Board of Appeals approval: When the terms and provisions of this Ordinance require authorization by the Zoning Board of Appeals as a variance and such authorization is given, the application shall be marked approved by the Board of Appeals and a copy forwarded to the Zoning Administrator
- E. Expiration of zoning permit: A zoning permit for a residential building for which all construction work has not been started within one year from the date of its issuance will expire automatically. A zoning permit for any other building or structure for which all construction work has not been started within two years from the date of issuance will expire automatically. A zoning permit expiring automatically pursuant to this subsection may, upon re-application, be renewable once for additional terms of one and two years, respectively (one year for residential buildings, two years for any other building or structure).

**21.2 CANCELLATION OF ZONING PERMITS**

The Zoning Administrator will have the power to revoke and cancel any zoning permit if there is failure or neglect to comply with all of the terms and provisions of this Ordinance or if there were any false statements or misrepresentations in the application of the zoning permit. Notice of such cancellation and revocation will be securely posted on the construction site, such posting to be considered as service upon and notice to the zoning permit holder of the cancellation and revocation of the zoning permit.

**21.3 FEES**

For each permit issued, a fee, to be established by the Fennville City Commission, will be paid to the Zoning Administrator, who will remit the same to the City Clerk. The payment of such fees is a condition precedent to the validity of the permit.

**21.4 CERTIFICATION OF COMPLIANCE**

No building or structure which is erected, moved, placed, reconstructed, extended, enlarged, or altered will be used in whole or in part until the owner thereof shall have been issued a certificate by the Zoning Administrator affirming that such building or structure conforms with all respects to the provisions of this Ordinance. Such certificates will be issued after the work is complete and final inspection has been made.

**21.5 OCCUPANCY PERMIT – CERTIFICATE OF OCCUPANCY**

No land, structure, or altered structure will be used or occupied until a Certificate of Occupancy is obtained from the building inspector. The building inspector will not issue a Certificate of Occupancy unless the proposed use is in compliance with the approved plans and specifications and is in accordance with any other relevant information submitted by the applicant to obtain required building and zoning permits. The building inspector will keep a record of all certificates and a copy of all such certificates provided to the City Clerk.

ARTICLE XXII

BOARD OF ZONING APPEALS

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22.0 STATEMENT OF PURPOSE

23.022.0

The purpose of this Article is to insure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured and substantial justice done.

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22.1 CREATION AND MEMBERSHIP

A Zoning Board of Appeals is hereby established in accordance with Public Act 110 of 2006, as amended. The City Commission may act as the Board of Appeals on questions arising under this Ordinance. In the alternative, if the City Commission desires it may appoint a Board of Appeals consisting of not less than 5 members, each to be appointed for a term of 3 years. Each member shall be appointed for a term of 3 years, except for members serving because of their membership on the planning commission or legislative body, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for remainder of the term. (amended 8-7-06)

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22.2 ORGANIZATION

22.322.2

- A. Rules of Procedure: The Zoning Board of Appeals may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Board may annually elect a chairperson, a vice-chairperson, and a secretary.
- B. Meetings and Quorum: Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the board in its Rules of Procedure may specify. A majority of the total membership of the Board shall comprise a quorum. All meetings shall be open to the public.
- C. Oaths and Witnesses: The chairperson may administer oaths and compel the attendance of any witness in order to insure a fair and proper hearing.

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D.C.

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~~E.D.~~ Records: The minutes of all meetings shall contain the grounds for every determination made by the Board and the final ruling on each case. The Zoning Board of Appeals shall file its minutes in the office of the City Clerk.

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~~22.3~~ **JURISDICTION**

~~22.5~~ 22.3

- A. The Zoning Board of Appeals shall act upon questions as they arise in the administration of this Ordinance. The Board shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The Zoning Board of Appeals **shall not** have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have the power to act on those matters for which this Ordinance provides an administrative review, interpretation or variance. Within this capacity the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Zoning Administrator, Planning Commission or any official administering or enforcing the provisions of this Ordinance as set forth below. (amended 8-7-06)
- B. The Zoning Board of Appeals shall be permitted to consider any requests for variances from the requirements and conditions of Planned Unit Developments and from the Site Design Standards of Special Land Uses.
- C. The Zoning Board of Appeals shall be permitted to grant use variances. The applicant is required to submit evidence, supported by a licensed engineer or architect's seal that an existing structure has at least twenty (20) years of useable structural life with only normal maintenance left. The Zoning Board of Appeals is required to agree by a 2/3 vote of the membership that the each of the standards for a use variance, listed in 22.4 C. has all been met.

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~~22.4~~ **AUTHORIZED APPEALS**

~~22.7~~ 22.4

The Zoning Board of Appeals shall hear the following specified categories of appeals in accordance with the following standards:

~~A.~~ Administrative Review: The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirements, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing the provisions of this Ordinance.

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extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. These things may include such things as exceptional narrowness, shallowness or shape of a specific property, exceptional topographic conditions, or other physical characteristics of the land, or other physical situations involving the building or structure deemed by the Zoning Board of Appeals to be extraordinary, or by reason of the use or development of the property immediately adjoining the property in question.

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c. That the proposed use will not alter the essential character of the neighborhood in which the property is located.

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d. That the use variance is not necessitated as a result of any action or inaction of the applicant

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2. Nonuse Variances require Practical Difficulties. A nonuse variance may be granted by Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulties in the official record of the hearing and all of the following standards are met.

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a. That the alleged practical difficulties are not deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

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b. That there are unique circumstances of physical condition of the land, such as narrowness, shallowness, shape or topography of the property involved, that do not generally apply to other property uses in the same zoning district, and shall not be recurrent in nature.

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c. That the hardship or special conditions do not result from actions of the applicant

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d. That the variance will be in harmony with the general purpose and intent of the Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district.

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e. That the variance requested is the minimum amount necessary to overcome the inequality inherent in he particular or mitigate the hardship

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~~These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.~~

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~~That a genuine hardship exists because of unique circumstances of physical condition such as narrowness, shallowness, shape or topography~~

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City of Fennville Zoning Ordinance

~~of the property involved, or to the intended use of the property, that do not generally apply to other property uses in the same zoning district, and shall not be recurrent in nature.~~

~~That the hardship or special conditions do not result from actions of the applicant.~~

~~That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district.~~

~~5. That granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district.~~

~~6. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.~~

~~e. 3. Conditions. That the variance shall not permit the establishment, within a district, of any use for which a special use permit is required.~~

In granting a variance, the Zoning Board of Appeals  
may prescribe appropriate conditions and safeguards in  
conformity with this Ordinance. Violations of such conditions  
and safeguards, when made part of the terms under which the  
variance is granted, shall be deemed a violation of this Ordinance  
and shall automatically invalidate the permit.

Each variance granted under the provisions of this Ordinance shall become null and void unless:

• The construction authorized by such variance or permit has commenced within six (6) months of granting of the variance.

• The occupancy of land, premises or building has taken place within one (1) year after the granting of the variance.

No application for the variance which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on the ground of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

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**22.5 APPEAL PROCEDURES:** (amended 8-7-06 A,B,C)  
~~22.9~~22.5

~~A.~~  
~~Notice of Appeal:~~ Appeals to the Zoning Board of Appeals may be made by any person aggrieved, or by an officer or department of the City, filing a written Notice of Appeal with the City Clerk. Upon receipt of a Notice of Appeal, the City Clerk shall promptly transmit the records concerning the appealed action to the chairperson of the Appeals Board. Any appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance shall be filed within ~~thirty~~ (30) days after the date of the Zoning Administrators decision.

~~B.~~  
~~Hearing:~~ Upon receipt of a Notice of Appeal, the chairperson of the Zoning Board of Appeals shall fix a reasonable time and date for a Public Hearing, not to exceed thirty (30) days from the date of filing of the Notice of Appeal. ~~Upon determination of the date and time of the Public Hearing, the City Clerk shall notify the following, by first class mail or by personal service, not less than fifteen (15) days before the Public Hearing:~~

~~The appellant~~

~~B.~~ All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within thirty (30) feet.

~~C.~~ Notice of Hearing: Upon determination of the date and time of the Public Hearing the City Clerk shall provide notice of the hearing by publication in a newspaper of general circulation in the City not less than fifteen (15) days before the public hearing. Notice shall also be sent by mail or personal delivery to the owner of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to all occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the City. The notice shall do all of the following:

1. Describe the nature of the request.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses with the property if there are no street address, other means of identification may be used.
3. State when and where the request will be considered. Indicate when and where written comments will be received concerning the request. Where the hearing, in the opinion of the City Clerk, concerns matters of general applicability in the City and does not concern only individual lots or parcels, such notice shall be given in a newspaper of general circulation in the City not less than fifteen (15) days before the public hearing.
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- D. Appearance: Upon the hearing, any party may appear in person or by agent or attorney. The Board may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.
- E. Fee: A fee as established by the City Commission, shall be paid to the City Clerk at the time the petitioner files and application with the Board. The purpose of such fee is to cover the necessary advertisements, investigations, hearing records and other expense incurred by the Board in connection with the appeal. No fee shall be charged if the City or any Official body of the City is the moving party.
- F. Decision: The Board of Appeals shall render its decision within thirty (30) days of filing of Notice of Appeal unless an extension of time is necessary to review new information pertinent to making the decision, and is agreed upon by the appellant and a majority of members of the Appeals Board present. The vote of a majority of members of the Board shall be necessary to take action on an appeal.
- G. Bonding: In authorizing any variance, or in granting any conditional, temporary or special approval permits, the Board may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the City in covering the estimated cost of improvements associated with a project for which zoning approval is sought, be deposited with the City Clerk to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Board may not require the deposit of the performance guarantee before the date on which the permit is to be issued. The Board shall establish procedures under which a rebate of any cash deposits in reasonable proportions to that ratio of work completed on the required improvements will be made as work progresses.

~~H.~~  
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~~22.6~~ **ADMINISTRATIVE VARIANCE:**

~~22.11~~ 22.6

- A. Procedure and Criteria: -The Zoning Administrator is hereby authorized to grant an administrative variance to the provisions of this Ordinance in an amount not to exceed a ten percent (10%) variation from the site development standards, parking and loading requirements, and the specific provisions and requirements contained in this Ordinance.

Upon receipt of a request for an administrative variance, the Zoning Administrator shall prepare a report of the situation and all factual data concerning the site in terms of the criteria stated in this Ordinance. Upon completion of the report, the Zoning Administrator shall determine whether or not the request meets the above stated criteria and shall

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City of Fennville Zoning Ordinance

- approve or deny the request exclusively on that basis. Decisions rendered by the zoning administrator shall be in the form of a letter, which states specifically a determination on each of the items contained in Section 22.4.C of this Ordinance, with reference to the above-mentioned report.
- B. Appeals: The decision of the Zoning Administrator may be appealed to the Board of Appeals pursuant to this Section.

~~22.7~~ **REVIEW BY CIRCUIT COURT:** ~~(amended 8-7-06)~~

~~22.13~~ 22.7

Any party aggrieved by an order, determination or decision of the Zoning Board of Appeals may appeal to the Circuit Court of Allegan County, as provided in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. ~~any officer, agency, board, commission, Board of Appeals or City Commission of the City of Fennville which has acted pursuant to the provisions of Public Act 110 of 2006, as amended may obtain a review thereof both on the facts and the law, in the Circuit Court of Allegan County, provided that all other means of local appeal and review as provided in this Ordinance have first been exhausted. The Circuit Court shall review the record and decision of the Board of Appeals to insure that the decision:~~

- ~~A. Complies with the constitution and laws of the State.~~  
~~B. Is based upon proper procedure.~~  
~~C. Is supported by competent, material, and substantial evidence on the record.~~

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**ARTICLE XXIII  
AMENDMENTS**

**23.0 PURPOSE AND INTENT:**

~~24.0~~23.0

The purpose of this Article is to establish and maintain sound, stable and desirable developments within the territorial limits of the City.

**23.1 INITIATION OF AMENDMENTS:**

Only the City Commission may amend this Ordinance. Proposals for amendments or changes may be initiated by the City Commission on its own motion, by the Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.

**23.2 FILING FEE:**

~~23.3~~23.2

The City Commission shall establish by resolution, a fee to be paid in full at the time of receipt of any application to amend this Ordinance. Said fee shall be collected by the City Clerk and no part shall be refundable to the applicant. No fee shall be charged when the applicant is a governmental body.

**23.3 PROCEDURES:**

~~23.5~~23.3

- A. Application: A petitioner shall submit a completed and signed application for Ordinance amendment, along with the appropriate fees, to the City Clerk. An application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment.
- B. Action of Clerk: The City Clerk shall review the application form to ensure it is complete. Any application not properly filed or complete shall be returned to the applicant. Complete applications shall be transmitted to the Planning Commission.
- C. Notice of Hearing: After transmitting the amendment application to the Planning Commission the Clerk shall establish a date for a public hearing on the application, which will be conducted by the Planning Commission within 45 days of the date of application receipt. The Clerk shall give notice of the public hearing in the following manner: (1&2 amended 8-7-06)

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1. By ~~one (1)~~ publications in a newspaper of general circulation in the City not less than fifteen (15) days before the date of the hearing.
2. For any proposed amendment to the zoning map, written notice will be delivered by mail, or hand-delivered, to all persons to whom any real property is assessed within three hundred (300) feet of the premises in question, and to the occupants of all ~~structures~~dwelling units within three hundred (300) feet of the premises in question. The notice shall be made ~~not less than~~at least fifteen (15) days prior to the hearing. This subsection (i.e. requirements of written notice to property owners and occupants) shall not apply if 11 or more adjacent properties are proposed for rezoning. Requirements of written notice to property owners shall not apply to a comprehensive revision to the Zoning Ordinance.

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**23.4 APPLICATION INFORMATION:**

23.723.4

When the petition involves a change in the zoning map, the applicant shall submit the following information to the City Clerk:

- A. A legal description of the property.
- B. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- C. The name and address of the applicant.
- D. The applicant's interest in the property, and if the applicant is not the owner, the name and address of the owner.
- E. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
- F. The desired change and reasons for such change.

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**23.5 PLANNING COMMISSION RECOMMENDATIONS:**

23.923.5

- A. Scope of Examination: In reviewing any application for an amendment to this Ordinance, the Planning Commission shall identify and evaluate all factors relevant to the application, and shall report its findings in full along with its recommendations for disposition of the application to the City Commission within a period of sixty (60) days. The matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
  1. What identifiable conditions related to the application have changed which justify the proposed amendment?

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City of Fennville Zoning Ordinance

2. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?
3. What is the impact on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
4. Does the petitioned district change adversely affect environmental conditions or the value of the surrounding property?
5. What is the ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located?
6. Will the rezoning be consistent with the policies and uses proposed for that area in the City's Master Land Use Plan?
7. Will all of the uses allowed under the proposed rezoning be compatible with other zones and uses in the surrounding area?
8. Would the uses allowed under the proposed rezoning be equally or better suited to the area than uses allowed under the current zoning of the land?

B. Finding of Fact: All findings of fact shall be made a part of the public records of the meeting of the Planning Commission. The Planning Commission shall transmit its findings of fact and a summary of comments received at the public hearing to the City Commission.

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C. Outside Agency Review: In determining the above-mentioned findings of fact the Planning Commission may solicit information and testimony from officials of, but not limited to, the following agencies:

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- a. Allegan County Health Department
- b. Allegan County Road Commission
- c. Allegan County Drain Commission

**23.6 CONSIDERATION BY THE CITY COMMISSION:**

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~~23.11~~ 23.6

After receiving the recommendation of the Planning Commission, the City Commission at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the proposed amendment. Such action shall be by Ordinance, requiring a majority vote of the full membership of the City Commission. ~~It is understood pursuant to Act 184 of Public Acts of 1943, as amended, that the City Commission shall not deviate from the recommendation of the Planning Commission, without first referring the application back to the Planning Commission, which shall have thirty (30) days from and after such referral in which to make further recommendation to the City Commission, which shall take such action as it determines.~~ If an application is referred back to the Planning Commission, the City Commission shall make specific mention of their objections to the Planning Commission's findings and recommendations. The

City of Fennville Zoning Ordinance

City Commission shall make a written record of the rationale for each action taken. (amended 8-7-06)

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**23.7 PUBLICATION OF NOTICE OF ORDINANCE AMENDMENTS:**

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23.13 23.7

Following adoption of amendments to this Ordinance, one (1) notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption. The notice shall include the following information:

- A. Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
- B. The effective date of the amendment.
- C. The place and time where a copy of the amendment may be purchased or inspected.

**23.8 RESUBMITTAL:**

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23.15 23.8

No application for a rezoning which has been denied by the City Commission shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the City Commission to be valid.

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**23.9 CONDITIONAL REZONING: (added 8-7-06)**

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23.17 23.9

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- A. Intent.  
It is recognized that there are certain instances where it would be in the best interests of the City, as well as advantageous to property owners seeking change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- B. Application and Offer of Conditions.
  - 1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time of application for rezoning is filed or may be made at a later time during the rezoning process.
  - 2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering

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rezoning requests made without an offer of conditions, except as modified by the requirements of this Section.

3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
6. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
7. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

~~8.~~ The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered into voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Commission provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

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~~9.8.~~

- C. **Planning Commission Review.**  
The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 23.5 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
- D. **City Commission Review.**  
After receipt of the Planning Commission's recommendation, the City Commission shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Commission's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Sections 23.5 and 23.6 of this Ordinance. Should the City Commission consider amendments to the proposed

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City of Fennville Zoning Ordinance

conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Commission shall, in accordance with Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405), refer such amendments to the Planning Commission for a report thereon within a time specified by the City Commission and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

E. Approval.

1. If the City Commission finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Commission to accomplish the requested rezoning.
2. The Statement of Conditions shall:
  - a. Be in a form recordable with the Allegan County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Commission.
  - b. Contain a legal description of the land to which it pertains.
  - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the City with the Allegan County Register of Deeds.
  - f. Contain the notarized signatures of all the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with the designation that the land was rezoned with a Statement of Conditions. The City

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City of Fennville Zoning Ordinance

Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the City with the Allegan County Register of Deeds. The City Commission shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.

~~5.~~ Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the zoning requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

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~~6.5.~~

F. Compliance with Conditions.

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and be subject to judicial abatement as provided by law.

~~2.~~ No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

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~~3.2.~~

G. Time Period for Establishing Development or Use.

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the City Commission if (1) it is demonstrated to the City Commission's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the City Commission finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise be inconsistent with sound zoning policy.

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H. Reversion of Zoning.



City of Fennville Zoning Ordinance

If approved development and/or use of the rezoned land does not occur with the time frame specified under subsection G. above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405. The reversion process shall be initiated by the City Commission requesting that the Planning Commission proceed with consideration of rezoning the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

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I. Subsequent Rezoning of Land.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion or zoning pursuant to Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Allegan County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

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J. Amendment of Conditions.

1. During the time period for commencement of an approved development or use specified pursuant to Subsection G above or during any extension thereof granted by the City Commission, the City shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as prescribed for the original rezoning and Statement of Conditions.

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K. City Right to Rezone.

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act (MCL 125.3401 et seq.).

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L. Failure to Offer Conditions.

The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this Ordinance.

## ARTICLE XXIV

### INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL, PENALTIES, AND EFFECTIVE DATE

[\(added 7-7-03\)](#)

#### ~~24.0~~ INTERPRETATION AND CONFLICTS:

##### ~~25.0~~ 24.0

In interpreting and applying provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate or annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

#### 24.1 SEVERANCE CLAUSE:

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid. If any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use, building or structure not specifically included in said ruling.

#### ~~24.2~~ VESTED RIGHT:

##### ~~24.3~~ 24.2

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

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**24.3 REPEAL:**

24.5 24.3

All ordinances and amendments thereto enacted and/or adopted by the City by virtue of Public Act 110 of 2006, as amended, and all ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act done, offence committed or right accrued or acquired, or liability, penalty forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted.

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**24.4 PENALTIES AND REMEDIES:**

24.4

A. Civil Infractions: Any building or structure which is erected, constructed, moved, placed, reconstructed, raised, extended, enlarged, altered, maintained or used or any use of a lot or land which is begun, maintained or changed in violation of any term provisions of this Ordinance is hereby declared to be a nuisance per se. Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any term or provision of this Ordinance, or any amendment thereof, shall be responsible for a municipal civil infraction subject to enforcement procedures as set forth in the Municipal Civil Infractions Ordinance adopted by the City, and a fine of fifty (\$50.00) dollars, plus costs and other sanctions, for each infraction. Each day during which any violation continues after due notice has been served shall be deemed a separate and distinct offense.

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Increased civil fines may be imposed for repeated violations of the Ordinance, a repeat violation means a second or subsequent civil infraction violation committed by a person within any twelve (12) month period and for which a person admits responsibility or is determined to be responsible. The increased civil fines for repeat violations shall be as follows:

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1. The fine for any offense which is a first repeat offense shall be two hundred fifty (\$250.00) dollars, plus costs and other sanctions;
2. The fine for any offense, which is a second, repeat offense or any subsequent repeat offense shall be five hundred (\$500.00) dollars, plus costs and other sanctions.

The zoning administrator, members of the Allegan County Sheriff's Department assigned to the City, members of any law enforcement agency whose services are contracted for by the City, and any other individuals who may from time to time be appointed

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City of Fennville Zoning Ordinance

by resolution of the City Commission, are hereby designated as the authorized City Officials to issue municipal civil infraction citations as provided by the Municipal Civil Infractions Ordinance adopted by the City.

- B. Remedies: The City Commission may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are civil in nature. The imposition of any fine shall not exempt the violator from compliance with the provisions of this Ordinance.

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**24.5 ADMINISTRATIVE LIABILITY**  
**24.824.5**

No officer, agent, employee, or member of the Planning Commission, City Commission, or Board of Appeals shall be held personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of his duties and responsibilities pursuant to this Ordinance.

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**24.6 EFFECTIVE DATE**

This Ordinance was approved and adopted by the City Commission of the City of Fennville, Allegan County, Michigan on July 7, 2003, after a public hearing as required pursuant to Michigan Act 207 of 1921, as amended, and after introduction and first reading on June 16, 2003, as required by the City Charter. This Ordinance shall be effective upon publication.

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\_\_\_\_\_  
City Mayor

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\_\_\_\_\_  
City Clerk

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**24.7 PREVIOUS AMENDMENTS TO THE ZONING ORDINANCE**

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Article XXIV – Interp/Serv/Vest Right/Repeal ~~XXIV 3~~  
Penalty/effective date

[City of Fennville Zoning Ordinance](#)

Ordinance No.	Section 24.01 Amendment	Section 24.02	Date
<a href="#">2018-03</a>	<a href="#">Zoning Text Amend 2.1S5; 4.8B; 13.6;18.8</a>		<a href="#">09-02-18</a>
<a href="#">14-1</a>	<a href="#">Zoning Map Amend rezone 0352-350-006-00 from RT to OS-1</a>		<a href="#">08-22-14</a>
<a href="#">11-01</a>	<a href="#">Zoning Text Amend 13.6</a>		<a href="#">10-27-11</a>
<a href="#">10-02</a>	<a href="#">Zoning Text Amend 13.1 O; 13.2.1</a>		<a href="#">11-19-10</a>
<a href="#">222</a>	<a href="#">Zoning Map Amend 0352-700-008-00 rezoned to CBD</a>		<a href="#">08-07-06</a>
<a href="#">221</a>	<a href="#">Zoning Text Amend 1.0; 19-A.3.c; 22.1; 22.3-A; 22.4-C; 22.5-A,B,C; 22.7; 23.6; 23.3C; add 23.9</a>		<a href="#">08-07-06</a>
<a href="#">220</a>	<a href="#">Zoning Text Amend 18.7H; 13-A.2;13-A.6.b</a>		<a href="#">04-13-06</a>
<a href="#">216</a>	<a href="#">Zoning Text Amend 13-A.4 23; 18.8B.5d</a>		<a href="#">09-15-05</a>
<a href="#">211</a>	<a href="#">Zoning Text Amend 2.12 S; 4.31E</a>		<a href="#">11-11-04</a>
<a href="#">210</a>	<a href="#">Add Art XIII-A</a>		<a href="#">06-20-04</a>
<a href="#">208</a>	<a href="#">Add Art XXIV</a>		<a href="#">07-07-03</a>
<a href="#">206</a>	<a href="#">Zoning Map Amend rezone 0352-100-009-00; 100-011-00; 100-012-00 from R2 to B1</a>		<a href="#">08-05-02</a>
<a href="#">205</a>	<a href="#">Zoning Text-Licensed Group Care Facilities</a>		<a href="#">02-15-01</a> <del>07-19-00</del>
<a href="#">202</a>	<a href="#">Zoning Text &amp; Map Amendment, Rezoning Car wash is special use in B-1</a>		<a href="#">09-06-00</a>
<a href="#">200</a>	<a href="#">Zoning Text Amendment – RM District</a>		<a href="#">09-06-00</a>
<a href="#">197</a>	<a href="#">Zoning Text Amendment – Single family dwellings permitted in RM District</a>		<a href="#">05-03-99</a>
<a href="#">196</a>	<a href="#">Zoning – Sign provision Ordinance</a>		<a href="#">01-04-99</a>
<a href="#">194</a>	<a href="#">Planning Commission reduced to five members</a>		<a href="#">08-17-98</a>
<a href="#">193</a>	<a href="#">Zoning – Rezone parcel from R-1 to RT</a>		<a href="#">12-17-98</a>
<a href="#">192</a>	<a href="#">Zoning Text Amendment – Wireless Communications</a>		<a href="#">12-08-97</a>
<a href="#">188</a>	<a href="#">Zoning Text – Penalty in Zoning Ordinance</a>		<a href="#">05-05-97</a>
<a href="#">185</a>	<a href="#">Zoning Map – Establishes R-1 and R-2 Districts</a>		<a href="#">09-16-96</a>
<a href="#">184</a>	<a href="#">Zoning Ordinance- Establishes B-2 District</a>		<a href="#">06-17-96</a>
<a href="#">183</a>	<a href="#">Zoning Map – Establishes B-2 District</a>		<a href="#">06-17-96</a>
<a href="#">182</a>	<a href="#">Zoning Text – Regarding non-conforming use</a>		<a href="#">06-03-96</a>
<a href="#">181</a>	<a href="#">Zoning Map – Establishes R-T District</a>		<a href="#">06-05-95</a>
<a href="#">179</a>	<a href="#">Zoning Map – Establishes R-2 District</a>		<a href="#">12-19-94</a>
<a href="#">175</a>	<a href="#">Zoning Amendment – Hard surface drives and parking</a>		<a href="#">05-26-94</a>

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[Article XXIV – Interp/Serv/Vest Right/Repeal ~~XXIV-4~~](#)  
[Penalty/effective date](#)

[City of Fennville Zoning Ordinance](#)

174	Zoning Text Amendment – Signs, billboards	04-28-94
173	Zoning Map – Establishes OS-1 District	12-20-93
169	Adoption of Zoning Ordinance	03-25-93

[Article XXIV – Interp/Serv/Vest Right/Repeal ~~XXIV-5~~](#)  
[Penalty/effective date](#)

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