

Village of Bellairre Zoning Ordinance



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Village of Bellaire Zoning Ordinance
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Preamble

An Ordinance to provide for the establishment of Zoning Districts to encourage and regulate the use of land and proper location of buildings and structures for residence, trade, industry, or other purposes; to regulate dimensions of yards, and other spaces; to provide for the administration, enforcement, penalties for violation, and amendment of this ordinance. Nothing herein shall relieve any property owner or applicant from complying with all applicable local ordinances, and state and federal regulations.

THE VILLAGE OF BELLAIRE HEREBY ORDAINS:

SECTION 1.01 Title

This Ordinance shall be known as the Village of Bellaire Zoning Ordinance.

SECTION 1.02 Purpose

The purpose of the Ordinance is to:

- A. Provide for the orderly development of the Village while minimizing the impacts of incompatible adjoining land uses and preventing nuisances from interfering with the reasonable use and enjoyment of private property. In all cases, it is the purpose of this Ordinance to regulate the use of private property so that it does not adversely impact upon broader public interest;
- B. Insure the public health, safety and general welfare;
- C. Promote the use of lands and natural resources of the Village in accordance with their character and adaptability and in turn, limit their improper use;
- D. Reduce hazards to life and property;
- E. Lessen congestion on the public roads and streets;
- F. Provide, in the interests of health and safety, the minimum standards under which certain buildings and structures may hereafter be erected and used;
- G. Facilitate the development of an adequate system of transportation, education, recreation, sewage disposal, safe and adequate water supply and other public requirements;
- H. Conserve life, property and natural resources and the expenditure of funds for public improvements and service to conform with the most advantageous uses of land, resources and properties.

SECTION 1.03 Authority

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the Michigan Zoning Enabling Act, Act 110 of Public Acts of 2006, as amended.

SECTION 1.04 Validity

This Ordinance and various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Village Council hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

SECTION 1.05 Limitation of Zoning Ordinance

The provisions of this Ordinance shall not impact the continued use of any dwelling, building or structure or any land or premises, which was lawful and existing on the adoption date of this Ordinance.

SECTION 1.06 Repeal of Previous Zoning Ordinance

- A. This Ordinance repeals and replaces any previous Village of Bellaire Zoning Ordinance in its entirety.
- B. The repeal of the Village of Bellaire Zoning Ordinance of 2008 as amended, as provided, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred there under or actions involving any provisions of said ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

SECTION 2.01 RULES APPLYING TO TEXT

The following rules of construction apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof.
- F. The words “used” or “occupied”, as applied to any land or buildings, shall be construed to include the words “intended”, “arranged”, “designed to be used”, or “occupied”.
- G. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions, or events, the terms "and", "or", "either...or", such conjunction shall be interpreted as follows:
 - A. "And" denotes that all the connected items, conditions, provisions, or events apply in combination.
 - B. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- H. “Village” shall refer specifically to Village of Bellaire.
- I. The term “person” shall mean an individual, firm, corporation, association, partnership, limited liability company or other legal entity, or their agents.
- J. Any word or term not defined herein shall be used with a meaning of common or standard utilization.
- K. The term “adjoining lots and parcels” is intended to include lots and parcels separated by highways, roads, streets or rivers.
- L. Any necessary interpretation of this Ordinance shall be defined by the Village Zoning Board of Appeals.

SECTION 2.02 DEFINITIONS

For the purpose of this ordinance, the following terms and words are defined as follows:

Accessory Building or Structure – Any building or structure that is customarily incidental and subordinate to the use of the principal building or structure, including but not limited to, accessory buildings, personal freestanding television, radio or wireless communication antennas and signs. An accessory structure attached to a main structure shall be considered part of the main structure.

Accessory Building, Major – Any accessory structure that is not a minor accessory building.

Accessory Building, Minor – An accessory structure 200 square feet or less with no permanent footings or foundations and/or no water/sewer connections.

Accessory Use – A use naturally and normally incidental and subordinate to the main use of the land or building.

Adult Arcade – Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

Adult Bookstore or Adult Video Store – A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
- B. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 35% or more of sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

Adult Cabaret – A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

- A. Persons who appear in a state of nudity;
- B. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
- C. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Motel – A hotel, motel or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the

depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;

- B. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater – A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Theater – A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

Alterations – Any change, addition or modification in construction or type of occupancy; any change or rearrangement in the structural parts of a building; any enlargement of a building or any change which may be referred to herein as “altered” or “reconstructed”.

Alternative Tower Structure – Man-made trees, clock towers, bell steeples, light poles and other similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Anemometer – An instrument for measuring and recording the speed of the wind.

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, wireless telecommunications signals or other communication signals.

Appearance Ticket – see Municipal Civil Infraction Citation.

Architectural Features – Parts of a building which are not for human occupancy, that shall include but are not limited to cornices, eaves, gutters, sills, lintels, bay windows, chimneys, cupolas and decorative ornaments.

Assisted Living – A living arrangement which provides housing and limited services such as recreation, meals and help with everyday tasks such as bathing, dressing, and taking medication to individuals who are partially able to provide services to themselves.

Automobile /Small Engine Repair – Any major activity involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

Automobile Wash Establishment – A building, or portion thereof, the primary purpose of which is washing motor vehicles.

Average – For the purpose of this Ordinance, the term, "average" will be an arithmetic mean.

Basement– A story having more than one-half of its height below the average finished level of the adjoining ground. A basement shall not be counted as a story for the purpose of height measurement in stories.

Bed & Breakfast Establishment – A dwelling, or portion thereof, where overnight and short-term lodging rooms and meals are provided for compensation.

Board of Appeals – As used in this Ordinance, this term means the Village of Bellaire Zoning Board of Appeals.

Boarding House – See Rooming House.

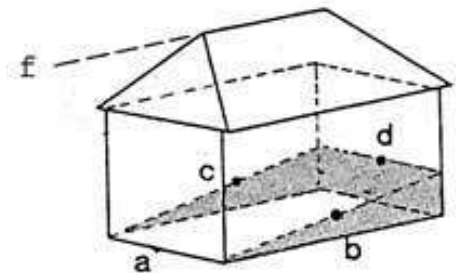
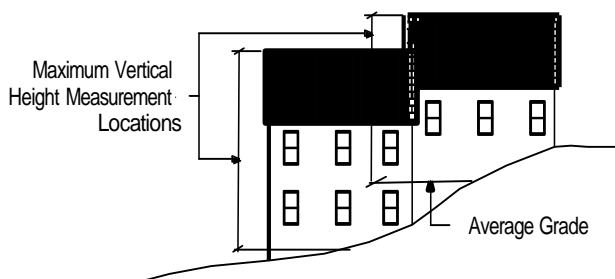
Boat and/or Canoe Livery – A place where boats and/or canoes are stored, rented, sold, and docked.

Brewery – A nonresidential structure in which a person is licensed by the Michigan Liquor Control Commission to manufacture and sell any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops, or other cereal in potable water. [Added on 8-2-2017 by Ordinance No. ZO #01 of 2017, effective 8-18-2017.]

Building – A structure either temporary or permanent, having a roof supported by columns or walls.

Building Height: The vertical distance from the peak of the roof to the average finished grade. When the terrain is sloping, the height shall be computed using the average grade measured at the building wall on all four sides (see Figure).

No portion of the structure's roof may exceed the maximum height allowed in the specific District regulations. As illustrated in Figure below, buildings may be "stair stepped" up and down slopes. The building height shall be calculated for each "stair stepped" portion separately.



a, b, c, d = avg finished grade on each building wall
 Average Grade (entire building): $(a+b+c+d)/4 = e$
 Height = f (elevation at peak) – e (average grade)

Campgrounds – Any parcel or tract of land, under the control of any person wherein pre-established sites are offered for the use of the public or members of an organization, either free

of charge or for a fee for the establishment of temporary living quarters for five (5) or more recreational units and/or tents.

Child Care Facility – A facility for the care of children (persons under 18 years of age), as licensed and regulated by the state under Act 116 of the Public Acts of 1973, being M.C.L. §§ 722.111 through 722.128, and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

- A. **Family Day Care Home** – A private home operated by a Michigan licensed day care operator in which at least one (1) but less than (7) seven children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent and legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year. Use by right where allowed if a 400 square foot fenced in play area is installed and a copy of the State license is presented with the permit application.
- B. **Group Day Care Home** – A private home operated by a Michigan licensed day care operator in which more than six (6) but not more than 12 children are given care and supervision for periods less than 24 hours a day, unattended by a parent or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year. Requires a special use permit.
- C. **Child Care Center or Day Care Center** – A facility, other than a private home, receiving more than six pre-school or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative pre-school, play group or drop-in center. Child Care Center or Day Care Center does not include a Sunday school conducted by a religious institution or a facility operated by a religious institution where children are cared for during short periods of time while persons responsible for such children are attending religious services. Requires a special use permit.

Church – See Place of Worship.

Co-location – The use of a wireless telecommunication tower by more than one wireless telecommunication provider.

Condominium Project – A plan or project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Act 59 of 1978, as amended).

Condominium Unit – That portion of a condominium project designed and intended for use by the unit owner consistent with the provisions of the master deed.

Cottage Industry – See Home Business, Cottage Industry.

Deck – A structural platform without a roof or walls, typically used for outdoor living purposes that may or may not be attached to a building.

Distillery – A nonresidential structure in which a person is licensed by the Michigan Liquor Control Commission to manufacture and sell (1) the product of distillation of fermented liquid, whether or not rectified or diluted with water, but not including ethyl or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes, and/or (2) a beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink. [Added on 8-2-2017 by Ordinance No. ZO #01 of 2017, effective 8-18-2017.]

Districts – Portions of the Village within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance. “Districts” as used herein is synonymous with the word “zones” or “zoning districts.”

Drive-through Business – Any restaurant, bank or other business with an motor vehicle service window.

Dwelling – A single unit building, or portion thereof, which provides complete independent living facilities for one (1) family for residential purposes, and includes permanent provisions for living, sleeping, heating, cooking, and sanitation. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling.

Dwelling, Accessory – A dwelling accessory to a single family residence or a commercial business, located either in the principal structure or an accessory building, such as a garage. An accessory dwelling commonly has its own kitchen, bath, living area, sleeping area and usually a separate entrance.

Dwelling, Manufactured – A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended, and
- B. The structure is designed to be transported to the site in nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent dwelling or as a module to be combined with other elements to form a complete dwelling on the site.

Dwelling, Mobile – A factory-built, single-family structure that is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, which does not have wheels or axles permanently attached to its body or frame, and which is constructed according to the National Mobile Home Construction and Safety Standards Act of 1974, as amended.

Dwelling, Multiple-Family – A building, or portion thereof, containing three (3) or more dwellings designed exclusively for occupancy by three (3) or more families living independently of each other.

Dwelling, Single-Family – A building, or portion thereof, containing one (1) dwelling designed exclusively for occupancy by one (1) family.

Dwelling, Two-Family – A building, or portion thereof, containing two (2) dwellings designed exclusively for occupancy by two (2) families living independently of each other.

Easement – A legal property right, held by a person to use the land of another person for a specific purpose.

Efficiency Unit – A dwelling small unit consisting of one room, exclusive of bathroom, hallway, and closets.

Enclosed, Locked Facility – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

Escort – A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency – A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Education Facility– A public or private educational facility or institution offering students academic, academic support services or vocational/trade programs and/or curriculum. Such term shall also include all adjacent properties owned by and used by such facilities/programs for educational, research, and recreational purposes.

Essential Services – The erection, construction, alteration, or maintenance by public utilities or municipal departments, commissions, or boards of underground or overhead gas, electrical, steam, water, or sewer transmission, distribution, collection, supply or disposal systems including poles, wires, mains, pipes, conduits, cables, hydrants, and other similar equipment and appurtenances necessary for such systems to furnish an adequate level of service. Telecommunication towers or facilities, alternative tower structures, wireless communication antenna and wind turbine generators are not included within this definition.

Excavating –The act of moving, filling or removal of earth, sand, stone, gravel, or dirt.

Family – An individual, or two (2) or more persons related by blood, marriage, or adoption, together with not more than three (3) persons not so related, occupying a dwelling and living as a single nonprofit housekeeping unit with single culinary facilities, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity, or similar dwelling for group use.

Fence – Any permanent or temporary means, partition structure or gate erected as a dividing structure or barrier.

Floor Area – The square footage of floor space measured from exterior to exterior wall for all floors, but not including enclosed and unenclosed porches, breezeways, non-commercial garages, attic, unfinished basement and cellar area.

Garage - Private – A building typically used for the storage of vehicles for the use of the occupants of a lot on which such building is located.

Gasoline / Service Station – Any land, building or structure used for sale or retail of motor vehicle fuels, oils, or accessories, or installing or repairing parts and accessories, but not including repairing or replacing of motors, doors, or fenders, or painting motor vehicles.

Grade, Finished – The elevation of the ground upon the completion of construction and improvements.

Greenbelt, Waterfront – A strip of land twenty-five feet in depth landward from and parallel with the Ordinary High Water Mark.

Hazardous Substances: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such materials or substances.

Home Business – A profession or occupation, or trade that is accessory to a principal residential use conducted within a dwelling or an accessory building to that dwelling. Home businesses fall into two classifications defined below:

Home Occupations – A profession or occupation conducted within a dwelling, or an attached garage, which is clearly incidental and secondary to the use of the lot, or dwelling for residential purposes, and includes an occupation to give instruction in a craft or fine art within a residence, as required under the Michigan Zoning Enabling Act. Home occupations are regulated by **Section 3.07**.

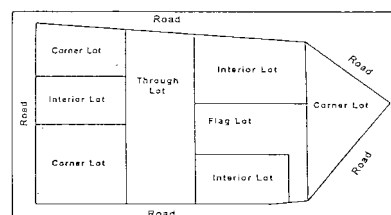
Cottage Industry – An occupation or trade conducted within a detached accessory building to a dwelling, which is clearly incidental and secondary to the use of the lot, and dwelling for residential purposes. Cottage industries are regulated by **Section 3.07**.

Hotel or Motel – A building in which transient lodging or boarding and lodging are offered to the public for compensation. Boarding houses and apartments are excluded.

Landscape Buffer – A strip of land for planting of shrubs and/or trees to serve as an obscuring screen to carry out the requirements of this Ordinance.

Loading Space – An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading or unloading merchandise or materials. Loading space(s) shall not be included as an off-street parking space in computation of the required off-street parking.

Lot – A parcel of land, either described by metes and bounds or by reference to a recorded plat, or a site condominium unit occupied or to be occupied by a use or building and its accessory buildings or



structures together with such open spaces, minimum area, and width as required by this Ordinance for the zoning district in which it is located.

Lot - Corner – A lot that occupies the interior angle at the intersection to two (2) street lines which make an angle of less than one hundred forty-five (145) degrees.

Lot Depth – The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, Interior – A lot with frontage on one (1) street.

Lot Line, Front – In the case of an interior lot, the boundary line of the lot immediately adjacent to the street right-of-way upon which the lot fronts; in the case of a corner lot, the front lot line shall be the boundary line of the lot immediately adjacent to the street right-of-way that the driveway enters from or the designated front entrance to the home.

Lot Line, Rear – A lot line which is opposite and most distant from the front lot line and, in the case of an irregular shaped lot, a line ten (10') feet in length within the lot, parallel to and at the maximum distance from the front lot line.

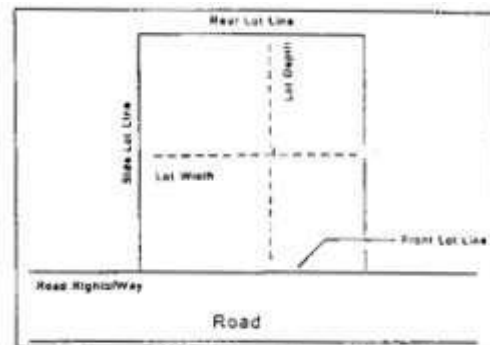
Lot Line, Side – Any boundary line not a front lot line or a rear lot line.

Lot of Record – A lawfully created lot defined by a legal description and recorded in the office of the Antrim County Register of Deeds on or before the effective date of this Ordinance or relevant amendments to this Ordinance.

Lot, Through – A lot, other than a corner lot, having frontage on more than one (1) street. Front yard corresponds to the accepted front door of the home.

Lot Width – The distance between the side lot lines measured at right angles to the lot depth at point midway between the front and rear lot lines.

Lot, Waterfront – A lot having a lot line abutting the shore of a lake or river.



Manufacturing – To make or process (a raw material) into a finished product, especially by means of a large-scale industrial operation; or to make or process (a product), especially with the use of industrial machines. To create, produce, or turn out in a mechanical manner or to concoct or invent; fabricate.

Marina, Commercial – A facility which extends into or over a lake, river or stream and that provides docking, storage, maintenance and other facilities for watercrafts. Slips may be rented, leased, or sold on a transient, short term, or long term basis to the general public.

Mobile Food Vending – Serving or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a ‘food service establishment’ under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with food.

Mobile Food Vending Unit – Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food is vended, served or offered for sale.

Mobile Food Vendor – Any individual engaged in the business of Mobile Food Vending: if more than one individual is operating a single stand, cart or other means of conveyance, then Mobile Food Vendor shall mean all individuals operating a single stand, cart, or other means of conveyance.

Mobile Home Park – A parcel of land which has been designed and improved for the placement of three (3) or more mobile homes.

Mobile Home Site – A plot of land within a mobile home park designed to accommodate one mobile home.

Marijuana or Marihuana – That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

Medical Use – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

Mobile Home – see Dwelling, Mobile.

Motel – see Hotel.

Municipal Civil Infraction Citation – A written complaint or notice prepared by an authorized Village Official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Nonconforming Structure – A building, structure, or portion thereof lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable dimensional regulations of the zoning district in which it is located.

Nonconforming Lot of Record – A lot lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable dimensional regulations of the zoning district in which it is located.

Nonconforming Sign – A sign lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable dimensional regulations of the zoning district in which it is located. A nonconforming sign shall be considered a nonconforming structure.

Nonconforming Use – A use lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable use regulations of the zoning district in which it is located.

Nude Model Studio – Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

Nudity or a State of Nudity – Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- A. A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
- B. Material as defined in Section 2 of Act No 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
- C. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.

Nursery, Plant Materials – A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery *does not include* space used for the sale of fruits or vegetables.

Nursing Home – A establishment where maintenance and personal or nursing care are provided for persons (as the aged or the chronically ill) who are unable to care for themselves properly.

Occupancy Permit – A permit issued by the Antrim County building official that certifies a structure as being completed and suitable for use and/or occupancy.

Open Space – An area that is intended to provide light and air, and is designed for environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation area, playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel. In no event shall any area of a lot constituting neither the minimum lot area nor any part of an existing or future road or right-of-way be counted as constituting open space.

Operate (as related to Mobile Food Vending) – All activities associated with the conduct of business, including set up and take down and/or actual hours when the mobile food vending unit is open for business.

Ordinary High Water Mark – The line between the upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is

apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high- established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

Owner – A person holding any legal, equitable, option or contract interest in land.

Park – Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, which are open to the general public for recreational purposes.

Person(s) – An individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

Place of Worship -- A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

Planned Unit Development (PUD) – A type of development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development. Such developments can be proposed as either single use (such as a residential site condominium project), or mixed use developments (such as a project which includes both residential and commercial components).

Planning Commission – For the purpose of this Ordinance, the term Planning Commission is deemed to mean the Village of Bellaire Planning Commission.

Plot Plan – The drawings and documents depicting and explaining all salient features of a proposed use for which a zoning permit is required, but a full site plan is not required, in order to evaluate compliance with Ordinance standards and requirements.

Primary Caregiver – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marijuana Act.

Principal or Main Use – The primary or predominant use and chief purpose of a lot or structure.

Qualifying Patient – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marijuana Act, and includes the parents or legal guardians of a qualifying patient under the age of 18 who are serving as the primary caregiver as required by the Michigan Medical Marijuana Act exclusively for that qualifying patient under the age of 18.

Recreational Vehicle (RV) – Any self-propelled motorized vehicle or travel or camping trailer, normally used only for vacation or recreational purposes.

Recreational Vehicle Park (RV Park) – Any site, lot, field or tract upon which one (1) or more occupied R.V. are harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such R.V. park; which site, lot, field or tract shall be licensed and regulated by the Michigan Department of Public Health.

Right-of-Way – A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

Rooming House – As residential building where rooms or suites are rented where the renter uses common facilities such as hallways and bathrooms. A rooming house shall not include hotels, motels, apartment houses, multi-family dwellings, duplexes, or fraternity and sorority houses.

Setback – The minimum horizontal distance from an applicable lot line within which no building or structure can be placed, except as otherwise provided in this Ordinance.

Setback, Front – The required setback measured from the front lot line.

Setback, Rear – The required setback measured from the rear lot line.

Setback, Side – The required setback measured from a side lot line.

Sexual Encounter Center – A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

Sexually Oriented Business – A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

Shed – See “Accessory Structure, Minor”.

Sign – A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of and for the benefit of any product, place, activity, individual, firm, corporation, institution, profession, association, business or organization.

Sign Area – The entire area within a circle, triangle, parallelogram or any other shape which encloses the extreme limits of writing, representation, emblem, logo, or any other figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

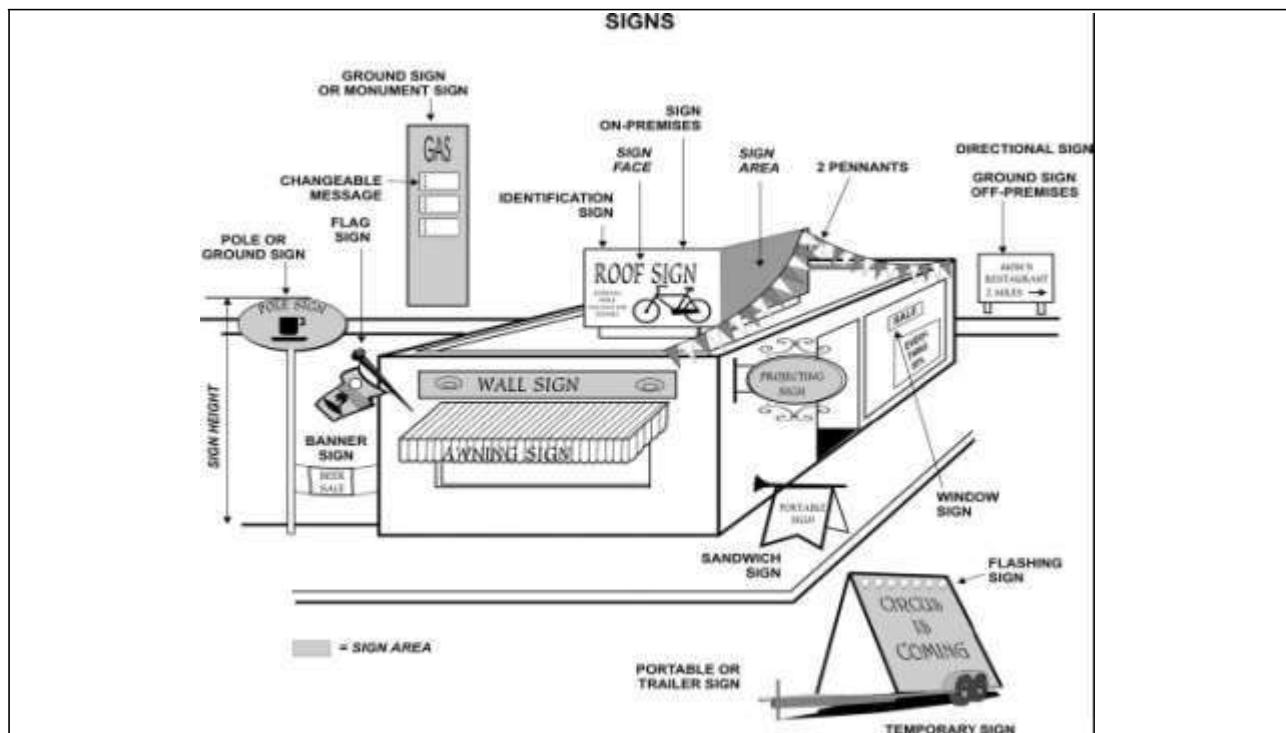
Sign, Accessory – A subordinate sign for traffic management or directional purposes only, which provides no advertising display or commercial message. (i.e. handicap parking signs).

Sign, Changeable Message – A sign designed so that the message displayed can be easily changed by hand, mechanically or electronically.

Sign, Freestanding or Ground – A sign supported by permanent uprights or braces in the ground.

Sign, Height of – The vertical distance measured from the ground immediately beneath the sign to the highest point of the sign or its projecting structure.

Sign, Identification – A sign whose copy is limited to the name and address of a building, institution, or person and/or the activity or occupation being identified.



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Sign, Nonconforming – A sign lawfully existing on the effective date of this Zoning Ordinance or amendment thereof, which does not conform to one or more of the regulations set forth in this Zoning Ordinance.

Sign, Permanent – A sign constructed of durable materials, installed in a secure manner which is intended to exist for the duration of time that the use or occupant is located on the premises.

Sign, Portable – A freestanding sign not permanently anchored or secured to either the building or the ground (such as a sandwich sign), and includes trailered or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.

Sign, Projecting– A sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

Sign, Temporary – Any sign or advertising device intended to be displayed for a limited period of time and capable of being viewed from any public right-of-way, parking area, or neighboring property.

Sign, Wayfinding – A sign including maps, graphics or audible methods used to convey location and directions to visitors.

Site Condominium Unit – That portion of a condominium subdivision designed and intended for occupancy and used by the unit owner consistent with the provisions of the master deed.

Site Plan – The drawings and documents depicting and explaining all salient features of the a proposed development so that it may be evaluated by the Planning Commission according to the procedures set forth in this Ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

Specified Anatomical Areas – Areas of the human body that are either of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernible turgid state, even if completely & opaquely covered.

Specified Sexual Activities – Activities that are any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks anus, or female breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in A through C above.

State Licensed Residential Facility – A structure constructed for residential purposes that is licensed by the State pursuant to Act No. 218 of the Public Acts of 1979, as amended, being Sections 400.701 to 400.737 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973, as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services or care for six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care.

Story – That portion of a building included between the surface of any floor and surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it, and exclusive of any mezzanine, balcony or basement.

Structure – Anything constructed, assembled, or erected, the use of which requires location on or beneath the ground or attachment to something on or beneath the ground, including but not limited to, dwellings, garages, principal and accessory buildings, mobile homes, fences, signs, towers, poles, underground storage tanks, decks, seawalls, docks, and other similar objects, but not including compacted gravel, concrete, or asphalt used as part of an approved parking area, driveway, or sidewalk, boardwalks, pathways, underground sprinkler systems on your own property and underground storm water retention systems consisting exclusively of pipes and rocks.

Telecommunication Towers and Facilities or Tower – All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Temporary Building or Use – A building or use permitted by this Zoning Ordinance to exist during periods of construction of the main building or for special events.

Transfer of Development Rights – The conveyance of development rights by deed, easement, or other legal instrument authorized by local law to another parcel of land.

Use – The lawful purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied according to this Ordinance.

Variance, Dimensional – A dispensation granted by the Zoning Board of Appeals to provide relief from a specific regulation in this Ordinance, which usually relates to an area, dimension, or construction requirement/ limitation.

Variance, Use – A dispensation granted by the Zoning Board of Appeals which authorizes a land use on a parcel which otherwise is not permitted by this Zoning Ordinance in the district in which the parcel is located.

Vehicle Sales – A licensed dealership primarily for the sale of vehicles, new and/or used.

Vicinity Sketch – A graphic depiction of a subject property as well as all properties within three hundred feet the associated land uses of such properties and the identification of streets in this area.

Wetlands – means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- (i) Contiguous to the Great Lakes, an inland lake or pond, or a river or stream.
- (ii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and more than 5 acres in size; except this subparagraph shall not be of effect, except for the

purpose of inventorying, in counties of less than 100,000 population until the department certifies to the commission it has substantially completed its inventory of wetlands in that county.

- (iii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and 5 acres or less in size if the department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner; except this subparagraph may be utilized regardless of wetland size in a county in which subparagraph (ii) is of no effect; except for the purpose of inventorying, at the time.

Wind Turbine Generator – A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.
3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

Wind Turbine Generator, Commercial – A wind turbine generator designed and used primarily to generate electricity by or for sale to utility companies.

Wind Turbine Generator, Noncommercial – A wind turbine generator designed and used primarily to generate electricity or produce mechanical energy for use on the property where located.

Wind Turbine Generator Tower Height – The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.

Yard – The space between a principal building, excluding steps and unenclosed porches, and a lot line.

Yard - Front – A yard extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest wall of the principal building.

Yard - Rear – The yard between the principal building and the rear lot line extending across the entire width of the lot.

Yard - Side – The yard between the principal building and a side lot line extending between the front yard and the rear yard.

Zoning Administrator – The person retained by the Village of Bellaire and designated to administer and enforce this Ordinance.

Zoning Permit – Written authority issued by the Zoning Administrator on a standard form on behalf of the Village permitting construction, moving, exterior alteration or use of a building or land in conformity with the provisions of this Ordinance.

SECTION 3.01 THE EFFECTS OF ZONING

- A. Except in the case of lawful nonconformities, per **Article 5**, no excavation for construction purposes, use or activity on a piece of land shall be established, no building or part thereof shall be allowed to be used, constructed, altered or moved upon any property unless it is in conformance with this Ordinance, and a zoning permit has been obtained as required by **Section 10.02**.
- B. If any activity, use, building, structure or part thereof is placed upon a piece of property in direct conflict with the intent and provisions of this Ordinance, such activity, use, building or structure shall be declared a nuisance per se and may be required to be vacated, dismantled, abated, or cease operations by any legal means necessary and such use, activity, building or structure shall not be allowed to function until it is brought into conformance with this Ordinance.
- C. In the event that any lawful use, activity, building or structure which exists or is under construction at the time of the adoption of this Ordinance and is not in conformance with the provisions of the zoning district in which it is located, such use, activity, building or structure shall be considered a legal nonconformity and be allowed to remain as such, including completion of construction, providing said construction does not require more than one (1) year from the effective date of this Ordinance for completion. If said construction is continued for more than one (1) year, the legal status of the activity, use, building or structure shall be determined by the Village of Bellaire Planning Commission.

SECTION 3.02 AIRPORT ZONING

In addition to the requirements of this Ordinance, all land within the Village of Bellaire shall be subject to the regulations of the Antrim County Airport Zoning Ordinance.

SECTION 3.03 ESSENTIAL SERVICES

- A. The erection, construction, alteration, maintenance, and operation by utilities or municipal departments or commission, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, hydrants, structures, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission, or for the public health or safety or general welfare, shall be permitted as authorized or regulated by any laws and the ordinances of the Village of Bellaire in any Zoning District.
- B. Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

SECTION 3.04 ACCESSORY BUILDINGS AND STRUCTURES

- A. An accessory building connected to the principal building by a roofed structure or shared

- wall shall be considered part of the principal building, provided the accessory building and connection to the principal building are approved by the Antrim County Building Department to ensure the applicable Construction Code requirements are met.
- B. An accessory structure which is connected to a principal building by means other than provided for in subsection A above, shall not be considered part of the principal building.
 - C. No Accessory buildings shall be permitted on a lot without a principal building or a valid zoning permit for the construction of the principal building, except in the case of contiguous parcel or parcels separated by a public or private road which are under the same ownership and the owner of the two lots records deed restrictions (or other legal instruments) acceptable to the Village attorney with the county Register of Deeds Office requiring the two lots to be used and/or sold as one development site.
 - D. The total ground level square footage of all accessory structures on any single lot or parcel shall not exceed one and half times first floor square footage of the principal structure on such lot or parcel.
 - E. Two major accessory buildings shall be permitted per lot or parcel.
 - F. Except for minor accessory buildings (200 sf or less), a detached accessory building or structure shall be located in accordance with the applicable district setback requirements, and maintain at least ten (10) feet between buildings, per **Section 3.21**.
 - G. Manufactured homes, mobile homes, RV's, and recreational vehicles, shall not be used as an accessory building or structure.
 - H. Except prefabricated accessory buildings, accessory buildings shall have eaves and soffit.
 - I. In addition to the allowed major accessory buildings or structures, two (2) minor accessory building/shed of not more than 200 square feet shall be allowed, and shall be located no closer than five (5) feet from a side or rear lot line regardless of the zoning district in which it is located.

SECTION 3.05 TEMPORARY DWELLING OCCUPANCY DURING CONSTRUCTION

For the express purpose of promoting the health, safety and general welfare of the inhabitants of the Village of Bellaire, and of reducing hazards to health, life and property, no basement-dwelling, cellar-dwelling, tent, camper, travel trailer, recreational vehicle, mobile home not installed according the requirements of this Ordinance, or other temporary structure shall hereafter be erected or moved upon any premises and used for dwelling purposes except under the following applicable conditions:

- A. The location shall conform to the provisions governing yard requirements of principal dwellings in the district where located.
- B. The use shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period in which a dwelling conforming to the provisions of this Ordinance is in process of erection and completion or during the period necessary for the remodeling, or the repair of damage to a dwelling caused by fire, flood, or other natural disaster, but only when the dwelling is not habitable due to the damage or during the remodeling. The temporary dwelling use authorized in this subsection shall not exceed twelve (12) months. One (1) additional twelve (12) month extension may be obtained from the Zoning Administrator beginning with the date of issuance of the zoning permit. Upon completion, repair, or remodeling of the principal dwelling, the

temporary dwelling shall be removed from the property, or utilized in compliance with this Ordinance. [Amended 07-01-2020 by Ord # ZO 2020-01, eff. 07-17-2020].

- C. Water and sewage disposal shall be provided in compliance with the applicable Village Ordinances, and in accordance with any applicable District Health Department regulations, and shall precede occupancy of the temporary dwelling.
- D. Application for the erection and use of a temporary dwelling shall be made at the time of zoning permit application for the permanent dwelling. On approval and delivery of the zoning permit, the applicant shall certify that he or she has full knowledge of the limitations of the permit and the penalty pertaining thereto. No such permit shall be transferable to any other person.
- E. No annexes shall be added to temporary dwellings.

SECTION 3.06 MOBILE HOMES

- A. Newly sited mobile homes located on individual lots shall meet the standard yard setbacks, minimum floor area and minimum dwelling unit width for the district in which they are located and shall meet the following additional standards:
 - 1. Mobile homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Mobile Home Commission requirements.
 - 2. Mobile homes shall be installed according to manufacturer's set up requirements, and the construction of the unit shall comply with the National Mobile Home Construction and Safety Standards Act of 1974, as amended.
 - 3. The wheels and axles shall be removed from a mobile home before the unit is attached to the foundation. Additionally, no mobile home shall have any exposed undercarriage or chassis.
 - 4. All mobile homes shall have manufacturer's certified minimum roof load of 30 pounds per square foot.
 - 5. Mobile homes shall not be used as an accessory building.
- B. Replacement of lawfully existing non-conforming mobile homes shall be allowed provided the replacement would improve the property, would not increase the non-conformity and shall meet the standards listed in **Section 3.06A** above.

SECTION 3.07 HOME BUSINESS

The regulation of home occupations and cottage industries as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such flexibility is not intended to change the essential residential character of residential districts, in terms of use and/or appearance. The nonresidential use shall only be incidental to the primary residential use.

- A. **Site and Development Standards**
Home occupations or cottage industries, as defined in Article 2 of this Ordinance, shall comply with the following site and development standards:

Standard	Home Occupation	Cottage Industry
Structure Used	Primary dwelling only	Primary Dwelling or Accessory Structure
Outdoor Storage or Display	Not allowed	If screened, screening approved by Planning Commission
# of Nonresident Employees	1	2
Retail Sales	N/A	Limited retail sales (incidental to residence) and does not create a nuisance
Traffic	Traffic – shall not exceed that normally created by residential use	Traffic – shall not exceed that normally created by residential use
Parking	No additional off-street parking demand	Not to exceed number of parking spaces set by PC, after consideration of the standards set forth in Section 3.14.B.6.
Appearance	No change in exterior appearance of residence, other than sign, unless required by the Antrim County Building Department.	Shall not detract from the residential character of the premises or neighborhood
Nuisance	No noise, vibration, glare, fumes, odors or electrical interference detectable off-site	Shall not create nuisance, due to objectionable levels of noise, vibration, glare, fumes, odors or electrical interference detectable off-site
Hours of Operation	Customer visits limited to 8:00am to 8:00pm	Approved by Planning Commission
Signs	4 square feet	4 square feet
Approval/permit required	Zoning Permit	Special Approval required

B. Termination, Extensions, Revisions, and Inspections

1. Upon written application by the owner, the Planning Commission may, for just cause, grant a time extension for compliance with the conditions of this Section.
2. Any cottage industry shall be subject to periodic review by the Zoning Administrator.
3. If the Zoning Administrator has reason to believe the property owner is in violation of his or her permit or grounds for revocation exist, written notice of alleged violation(s) shall be sent to the operator of the home occupation or cottage industry.
4. Proposed revisions or additions to a cottage industry shall constitute a change of use and shall be subject to special use review and approval by the Planning Commission.

**SECTION 3.08 RECREATIONAL VEHICLES FOR LODGING OR CAMPING PURPOSES
[AMENDED 07-01-2020 BY ORDIN # ZO 2020-02, EFF. 07-17-2020].**

- A. One (1) RV may be located and occupied on a vacant parcel or lot for up to thirty (30) days per calendar year, but not more than fifteen (15) consecutive days. A zoning permit is required.
- B. Group gatherings with multiple RVs located on a parcel or lot shall be allowed one time per calendar year, for not more than 10 consecutive days provided Health Department approved temporary sanitary facilities are provided, and with a zoning permit.
- C. In the event of an extreme medical emergency the Planning Commission may allow the temporary placement of a RV on any lot with occupied dwelling unit in the Village, but not to exceed six (6) months.
- D. Recreational vehicles may be located and occupied on a lot with a dwelling unit without a zoning permit, subject to the following requirements:
1. No more than one (1) recreational vehicle may be occupied simultaneously on the same lot.
 2. The occupancy of any recreational vehicle shall not exceed a total of fifteen (15) days in any calendar year.
 3. Each recreational vehicle shall fully comply with all setback requirements of the zoning district within which it is located.
- E. One (1) RV may be stored on the lot of any occupied dwelling unit in the Village provided all of the following conditions are met:
1. The RV shall carry currently valid state license plate.
 2. The RV shall not be occupied or used as a dwelling while stored, except as provided for in C.
 3. The RV shall not be connected to water and sewer services, while stored.
 4. Wheels and tires are not removed at any time while stored except for the purposes of repair.
 5. The RV is not used for any purpose.
 6. The RV shall not be used for storing materials of any kind other than the furnishings and personal items common to a RV.
 7. The RV is not elevated, blocked or stabilized in any manner other than with jacks designed for that purpose.

SECTION 3.09 FENCES AND WALLS

- A. All Boundary line fences shall be entirely located upon the private property of the person, firm or corporation constructing, or causing the fence, unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties. Any gate in the fence shall swing open into the fence owner's property. No setback requirements shall apply.
- B. Fences in the Residential Districts shall not exceed six (6) feet in height in the side and rear yards and shall not exceed four (4) feet in height in the front yard and in the yard between the principle building and the lot line that abuts the shore of the lake or river.
- C. Fences in the Commercial and Manufacturing Districts shall not exceed eight (8) feet in height except security fences, which shall not exceed twelve (12) feet in height including barbed wire toppings. No barbed wire shall be located less than 6' above ground level.
- D. No fences shall be constructed within road rights-of way or utility easements.
- E. No fence shall be permitted to encroach upon a public right-of-way, such as a street or alley.
- F. Hedges or living fences shall be maintained so as not to encroach upon neighboring properties, sidewalks, right-of-ways or hinder the vision of a vehicle driver.
- G. Materials: For all fences and walls erected after the effective date of this Ordinance, the finished face of such fence or wall shall face outside the property, with any visible posts or supports being located inside of the fence or wall.
- H. The owner of a fence or visual screen, consisting of materials requiring painting, staining or other significant periodic maintenance, shall be responsible for all maintenance of the fence.
- I. Clear Vision Areas: Clear vision areas shall be maintained at all intersections of public roads, streets, alleys and driveways.
- J. No fence shall be approved which constitutes a fire hazard either itself or in connection with the existing structures in the vicinity, nor which will interfere with access in the case of a fire or emergency, or will constitute a hazard to street traffic or to pedestrians.
- K. All fences require a Zoning Permit, except living fences.

SECTION 3.10 OUTDOOR LIGHTING

- A. All outdoor lighting, whether for illuminating sites, parking areas, buildings, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all adjacent properties and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Lighting fixtures are to be of the full cut-off design with horizontally aligned flush mounted (non-protruding) lens, directing light on-site only, and no more than twenty (20) feet in height.
- B. The Planning Commission may permit taller or require shorter fixtures only when the Commission determines that unique conditions exist and where a waiver would: reduce the number or size of light fixtures; not adversely impact neighboring properties; and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures.

Site lighting shall not exceed twenty (20) foot candles as measured three (3) feet above the ground surface, directly under the fixture.

- C. Outdoor low-voltage lighting, typically used for residential landscape or accent lighting shall be excluded from these regulations.

SECTION 3.11 SIGNS

The purpose of this section is to preserve the desirable character and personality of the Village of Bellaire, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by the local business places. At the same time, the Village recognizes the right of residents to be free of advertising that could affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this ordinance.

A. Sign Regulations Matrix

Sign Regulations		Zoning Districts																				
		Commercial					Residential			CR												
		CBD	VC	C	M		R-1	R-2	R-3													
Central Business District		1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Village Commons		2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Commercial		1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Manufacturing		2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Multiple Family Res.		1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Single Family Residential		2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Single Family High Density		1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Conservation Reserve		1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Approval Requirements		None																				
A. STREET ADDRESS/ IDENTIFICATION /SIGN		<ol style="list-style-type: none"> Number^a: Size^a: Maximum size allowed in square feet. Approval Requirements 																				
B. PERMANENT SIGNS <i>Including, but not limited to:</i>		<ol style="list-style-type: none"> Number: Total Permanent Signs per property or business, whichever is greater Size: Max. size (per side) in square feet Height: Maximum in feet Setback Requirements Approval Requirements 																				
C. CHANGEABLE MESSAGE SIGN		<ol style="list-style-type: none"> Number: Total Changeable Message Signs per property Size: Max. sign (per side) in square feet 																				

A. Sign Regulations Matrix – cont’d

Sign Regulations		Zoning Districts												
		Commercial					Residential							
		CBD	VC	C	M		R-1	R-2	R-3		CR			
		Central Business District	Village Commons	Commercial	Manufacturing		Single Family Residential	Multiple Family Res.	High Density Single Family		Conservation Reserve			
C. CHANGEABLE MESSAGE SIGN- cont’d	3.	Height: Maximum in feet	10	10	10	10								
	4.	Setback Requirements (for sign and supporting structure)	Meet District Setback Stds	Min 10' from Front lot line, and NOT in Right of Way. ^c										
	5.	Approval Requirements	ZA or PC, Zoning Permit											
D. TEMPORARY SIGNS ^c	1.	Number: Total allowed (all types) ^{c, e}	4 ^d	4 ^d	4	4								
	2.	Total Area: Total Square Footage of all Temporary Signs ^e	24	24	24	24								
	3.	Setback Requirements:	Meet District Setback Stds	Min 10' from Front lot line, and NOT in Right of Way ^c										
	4.	Approval Requirements	Registration required.											

Notes:

- a. Street Address/Identification signs not exceeding the district size limit or number shall be allowed in addition to the number of signs and total sign area permitted for Permanent, Changeable copy and Temporary signs
- b. Businesses with entrances on more than one street and/or lane, shall be allowed one additional permanent sign for the side or rear entrance, of the size allowed for the Zoning District.
- c. Signs shall not be located in Road Right of Way, except with specific written permission of the governing Road Agency.
- d. Portable sandwich board type signs, shall be removed nightly and shall not impede the pedestrian walkway. Signs temporarily affixed to the interior of a window shall not be included for the purpose of the number and total area allowed for temporary signs.
- e. Signs temporarily affixed to the interior of the window shall not be included for the purpose of calculating the number and total area allowed for temporary signs.

In addition to the specific regulations specified by zoning districts stated in **Section 3.11.A** Sign Regulations by District, the following conditions shall apply to all signs and billboards erected in any use district:

B. General Sign Regulations

1. No sign, except specifically identified in **Section 3.11.A** above, shall be erected or altered until approved by the Zoning Administrator (ZA) or authorized by a Planning Commission (PC) approved site plan. After the ZA or PC approval, the required zoning permit shall be issued.
2. No signs or billboards shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
3. Illumination of signs shall be directed, shaded or designed so as not to interfere with the vision of persons on the adjacent highway, streets or properties. The projected light shall not emanate beyond the sign and unnecessarily illuminate the night sky, in compliance with **Section 3.10** of this Ordinance. Illuminated signs shall not be of the flashing, moving or intermittent type.
4. All directional signs located along the highway, to direct traffic to a business off the highway, must conform to the standards used by the Michigan Department of Transportation for such signs. Wherever possible such directional signs will be clustered.
5. Both sides of any freestanding or projecting sign may be used for display.
6. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet. However, prior to the erection or overhanging of a sign in a public right-of-way, the sponsor of such sign is responsible for receiving the approval of the proper governmental agency having jurisdiction over such right-of-way (county or state).
7. Roof position signs or billboards are specifically prohibited.
8. In no case shall a sign or signs exceed a total of ten percent (10%) of the building face to which they are attached, except signs temporarily affixed to the interior of a window shall not count toward the 10%.
9. Portable signs shall be prohibited, except where allowed for in this section or such signs have been approved by the Planning Commission as meeting a special purpose and/or being appropriate for the particular need. Sandwich board portable signs shall not exceed twenty four (24) inches in width by forty eight (48) inches in height, and shall be removed nightly.
10. Advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are prohibited, except when used temporarily for period not to exceed fifteen (15) days, and no zoning permit or registration is required.
11. Banners across M-88: the temporary location of banners across M-88 at Village defined location(s) for Village Council approved events shall be permitted with Village council approval for a defined time period and subject to scheduling with the Village Department of Public Works.

12. The use of any legally existing outdoor business or informational sign erected and in use at the date this Zoning Ordinance is enacted may be continued. Such signs shall be designated as “Nonconforming Signs”. The maintenance, reconstruction, alteration, discontinuation, and change in the nonconforming nature of a Nonconforming Sign shall be governed by **Article 5** – Nonconformities of this ordinance the same as for other nonconforming uses under this ordinance.
13. Community wayfinding signs sponsored by a governmental authority or commission shall be allowed in all zoning districts, subject to the Village Council approval, provided such signs do not specifically identify any business by name.

SECTION 3.12 ANTENNA CO-LOCATION ON AN EXISTING TOWER OR STRUCTURE

- A. No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower’s structural integrity.
- B. The installation and/or operation of the above mentioned, antennas or facilities shall not interfere with normal radio/television reception in the area. In the event interference occurs, it shall be the sole responsibility of the owner to rectify the situation with the parties involved.
- C. No antenna or similar sending and receiving devices appended to the tower or structure shall increase the overall height of the tower or structure by more than twenty (20) feet, or 10% of the tower’s original height, whichever is greater, but in no event shall the height exceed the limitations specified in the Antrim County Airport Zoning Ordinance.
- D. The Zoning Administrator shall within 14 days of receiving the application determine whether the application is administratively complete and the required fee has been paid. If the Zoning Administrator fails to make this determination within the 14-day period, the application shall be deemed administratively complete.
- E. If, before the expiration of the 14-day period, the Zoning Administrator notifies the Applicant that the application is not administratively complete, or notifies the Applicant that the required fee has not been paid, specifying the amount due, the 14-day period is tolled until the Applicant rectifies the specified deficiencies.

SECTION 3.13 NON-COMMERCIAL WIND TURBINE GENERATORS

Non-commercial wind turbine generators (WTG) and anemometer towers erected prior to a non-commercial wind turbine generator may be located in any district, provided the WTG or anemometer tower is setback from the property line a distance at least equal to the total height of the WTG or anemometer tower. The minimum height for the blade clearance from the ground shall be fourteen (14) feet.

SECTION 3.14 VEHICULAR PARKING AND ACCESS

- A. **Off-Street Parking, Loading and Unloading Requirements and Standards**
Off-street parking space with adequate access to all spaces shall be provided and maintained in all zoning districts (except in the CBD and on Bridge Street between Antrim and 4th Street) at the time of erection or alteration of any main building, that is adequate for parking, loading and unloading of vehicles according to the requirements

listed below, and including at least the minimum number of spaces required by the table in **Section 3.14C** Minimum Number of Parking Spaces per Unit.

B. Parking Requirements

1. Parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
2. Residential off-street parking space shall consist of a parking strip, driveway, garage or any combination located on the premises they are intended to serve. In a residential district, a licensed commercial vehicle may be parked provided it is owned or operated by someone residing on the premises.
3. Adequate space should be provided in all parking, loading and unloading areas to facilitate turning around of vehicles so that the entry on to streets and county roads may be in a forward manner and not by backing. Furthermore, in parking, loading and unloading areas where internal movement of vehicles is necessary, adequate aisle space shall be provided to insure vehicular and pedestrian safety.
4. A minimum of one hundred sixty-two (162) square feet shall comprise one (1) vehicular parking space or nine (9) feet by eighteen (18) feet.
5. Computation of floor area of buildings shall be exclusive of basements, cellars or attics where these areas are used for storage or utilities; calculated using the outside perimeter of the building. In the case of a single story structure, the floor area may be reduced by ten (10) percent to accommodate storage or utilities.
6. The Village Planning Commission shall determine the required parking spaces needed based on the guidelines in **Section 3.14C** Minimum Number of Parking Spaces per Unit and the materials presented during the site plan review and with consideration to the uniqueness of the business.
7. Adequate area must be provided for snow piling and on-site drainage. Handicap parking must be provided as required by State and Federal regulations. Designation of parking area must be clearly identifiable for use by the public.
8. Every building or structure engaged in loading and unloading goods shall provide space (except the east side of Bridge Street in the 200 block) on the premises in addition to that required for parking, for the loading, unloading and standing of all vehicles to avoid undue interference with public use of the highway, excluding alleys.

C. Minimum Recommended Number of Parking Spaces per Unit

Business Type	Number of Parking Spaces Need
Banks, business offices, studios and professional offices of architects, lawyers, and similar professions	Three (3) parking spaces; plus one (1) additional parking space for each three hundred (300) square feet of floor area.
Barber shops and beauty parlors	Two (2) parking spaces for each operator chair; plus one (1) parking space for each two (2) employees
Bowling establishments	Five (5) parking spaces for each bowling lane
Theaters and auditoriums except schools	One (1) parking space for each four (4) seats; plus one (1) parking space for each two (2) employees.
Community center, library, museum or art center	One (1) parking space for each two hundred (200) square feet of floor area
Dwellings	Two (2) parking spaces for each dwelling unit.
Medical clinics and similar establishments	One (1) parking space for each bed and/or examining room; plus one (1) parking space for each two (2) employees on maximum working shift; plus one (1) parking space for each two hundred (200) square feet of floor area.
Laundromats	One (1) parking space for each two (2) washing machines and/or dry cleaning machines.
Hotels, motels, tourist homestead lodging house	One (1) parking space for each sleeping room; plus one (1) parking space for each two (2) employees on the maximum working shift.
Manufacturing or industrial establishments, warehouse or similar establishment	Two (2) parking spaces for each two (2) employees on maximum working shift; plus space to accommodate all vehicles used in connection with the operations of the establishment.
Plumbing, printing and similar service shops and businesses	One (1) parking space for each employee; plus one (1) parking space for each three hundred (300) square feet of floor area
Private clubs, night club, dance halls and similar recreational establishments	One (1) parking space for each one hundred (100) square feet of floor area
Professional offices of doctors, dentists and similar professions	One (1) parking space for each one hundred (100) square feet of floor area or a minimum of four (4) parking spaces, whichever is greater.
Restaurants, and similar establishments for sale and service of food and drink, except liquor and drive-ins	One (1) parking space for each one hundred (100) square feet of floor space.
Retail stores	One (1) parking space for each one hundred fifty (150) square feet of floor area.

SECTION 3.15 WATER SUPPLY & SEWAGE DISPOSAL FACILITIES

All water supply and sanitary sewage shall be provided in accordance applicable Village of Bellaire Ordinances.

SECTION 3.16 STORM WATER RETENTION

- A. The property owner of any property which is changed or developed in any manner, shall be required to manage the stormwater to utilize existing storm sewers where available, or in such a manner that the post-development runoff shall not increase the quantity, rate or velocity of stormwater leaving the property above the pre-development or natural conditions levels and shall not cause erosion. In areas not served by storm sewers, stormwater drainage in excess of natural conditions shall be retained on site. This provision may require stormwater retention ponds where appropriate. An exception may be made for water leaving the site via an adequately sized existing stormwater ditch, stormwater pipe or through other stormwater facilities that will be developed at the same time as the proposed new use. Stormwater management efforts shall be consistent with the provisions of the Antrim County Stormwater and Soil Erosion Control Program. In the case of conflicting regulations, between the Village of Bellaire Zoning Ordinance and the Antrim County Stormwater and Erosion Control Program, the more stringent of the two shall apply. Written approval from the Michigan Department of Transportation (MDOT) shall be required for an additional site run-off directed into a state trunkline ditch, i.e. M-88.
- B. All stormwater management plans shall be designed to handle one (1), one hundred year, 24 hour storm event. Measures shall be implemented to capture any oil and grease, so as not to release such pollutants with the stormwater.

SECTION 3.17 HAZARDOUS SUBSTANCES

All business or industries that store, use or generate hazardous substances, as defined in this Ordinance, shall meet all state and federal requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of said hazardous substances. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

SECTION 3.18 WATERFRONT GREENBELT

To preserve natural resources, water quality and community scenic and recreational values, a waterfront greenbelt shall be established and maintained on all waterfront lots. The waterfront greenbelt shall include all land located within twenty-five (25) feet of the ordinary high water mark of the lake, river, or stream abutting the lot. Public walkways may be located within ten (10) feet of the ordinary high water mark. If public walkways are located in a waterfront greenbelt area that is considered a wetland, the walkway shall be elevated. Any development within the waterfront greenbelt shall comply with all of the following requirements:

- A. No structures, or parking area(s), shall be allowed within the waterfront greenbelt, except for docking facilities (which must be parallel and attached to the shoreline), and pathways meeting the requirements of this section necessary for reasonable access to the water.

- B. A natural vegetation strip shall be maintained in the waterfront greenbelt within ten (10) feet of the ordinary high water mark of the lake, river, or stream abutting the lot. Existing vegetation within the natural vegetation strip shall be preserved and maintained, except as necessary to allow construction of those structures permitted within the waterfront greenbelt and except to provide a filtered view of the water from the principal structure as permitted in this section. A mowed lawn to the water's edge is prohibited in the natural vegetation strip.
- C. Dead, diseased, unsafe or fallen trees, shrubs, and noxious plants, including poison Ivy, poison sumac, poison oak, and other plants regarded as a common nuisance in Section 2, Public Act 359 of 1941, as amended, being MCL 247.62, may be removed from the natural vegetation strip.
- D. If a structure is sited on the waterfront lot, an area of the natural vegetation strip equal to no more than 1½ times the width of the principal structure may be selectively pruned to provide a filtered view of the water. Prior to any pruning, the property owner shall consult with the zoning administrator to establish the acceptable amount of pruning allowed. No clear cutting within the natural vegetation strip shall be permitted.
- E. If the natural vegetation has been removed in violation of this section or if replacement of natural vegetation is necessary due to diseased or other factors, then that vegetation shall be replaced with native trees, shrubbery, or other vegetation that is effective in retarding runoff, preventing erosion, and preserving the natural beauty of the area.
- F. The natural vegetation strip shall be fenced with silt fence and the construction barrier fencing prior to grading or other on-site construction activities. This protective fencing within the waterfront greenbelt area, shall be maintained until the completion of site construction activity
- G. No unsightly, offensive, or potentially polluting material, including but not limited to, compost piles, lawn clippings, leaves, garbage, trash, refuse, manures/fertilizers, and animal pens shall be used, stored, or located within the waterfront greenbelt area.
- H. No breakwalls, seawalls, bulkheads, broken concrete or other rubble, rock riprap, or other shoreline hardening material shall be located within the natural vegetation strip.
- I. All pathway(s) shall meander down to the ordinary high water mark in a manner that protects the soil and vegetation from erosion.
- J. Pathways may be constructed within the waterfront greenbelt area and within the native vegetation strip if all of the following requirements are met:
- (i) The pathway shall be constructed of permeable material that does not allow surface water to drain directly into the lake, river, or stream.
 - (ii) A maximum of two (2) pathways are permitted per lot. The width of each pathway shall not exceed six feet (6).

SECTION 3.19 STEEP SLOPES

The development on any lot with a slope of 18% or greater, as determined by a topographic survey, shall:

- A. Maintain the natural vegetation on the lot wherever possible. If removal of vegetation is required, the owner shall re-establish vegetation of a compatible plant material to pre-disturbance densities.

- B. All exposed slopes and graded areas of the lot shall be landscaped with groundcover, shrubs and trees consisting of perennial native species.
- C. Existing mature trees shall be incorporated into the design of the development unless documentation is provided showing it is not feasible, notwithstanding costs.
- D. Natural drainage courses on the lot shall be protected from grading activity.
- E. Groundwater flow patterns on the lot shall not be interrupted.
- F. Structures shall be clustered on the lot as much as reasonably possible to retain surrounding tree cover and to minimize changes in topography.
- G. All structures shall be setback from the ridgeline at least twenty-five (25) feet.
- H. No clearing of vegetation shall occur on the ridgeline of the lot, except as reasonably required for access to the lot.
- I. Access drives and/or streets shall be aligned with the natural contour of the land in order to minimize cutting and filling.
- J. Drainage of stormwater from access drives, streets, and rooftops shall be designed to preclude concentrated discharges at any one location on the top of a steep slope and to preclude direct discharge of stormwater into a water body without filtration provided by a filtration bed, rain garden, infiltration basin, and/or detention basin to be located on the upslope side of the lot.
- K. All utilities shall be underground (other than if doing so would cause documented environmental damage) and shall be designed, installed and maintained so as not to create soil erosion hazards.
- L. Owner shall provide certification by a licensed professional that the steep slope on the lot may be safely developed, shall preserve the natural watershed and prevent soil erosion.

SECTION 3.20 LANDSCAPE BUFFER

- A. A landscape buffer, as defined herein, shall be required for any commercial or manufacturing use that abuts a residential use on either the side yard or rear yard, the proposed plant sizes, spacing and species shall be reviewed during the site plan approval process. In all instances, this may be provided as part of the side or rear requirements. The landscape buffer may be waived by the Planning Commission if it were found that there would be no adverse effect upon the neighboring property resulting from the waiver or omission. Open space may also be required as a condition of site plan approval.
- B. A landscape buffer shall be required for new residential, commercial, or manufacturing construction that abuts the Conservation Reserve District.

SECTION 3.21 BUILDING SPACING

Except in the CBD and as provided in **Section 3.04.F.**, a building, whether principal or accessory, shall be located no closer than ten (10) feet to any existing building. No addition to a building shall be permitted that would result in a reduction of building separation to less than ten (10) feet.

SECTION 3.22 YARD/GARAGE SALES

A yard or garage sales shall not occur more than twice per calendar year on any property. No yard or garage sale shall last more than four (4) consecutive days, and must be at least five (5) days apart. The owner of the property shall be the responsible party.

SECTION 3.23 OUTDOOR DISPLAY OF MERCHANDISE

- A. The outdoor display of goods for sale shall be allowed only as an accessory use to the main use on the same lot or tract of land.
- B. Outside display of goods for sale incidental to a retail use, plant nursery, sales and rental of motor vehicles, mobile homes, boats or trailers, or the outside display of automobile-related merchandise for sale incidental to a gasoline filling station shall not be required to be screened.
- C. Displays shall conform with all of the following requirements:
1. Where outside display is located adjacent to a building, an unoccupied area of not less than three (3) feet in width shall be provided for pedestrian access between any outside display and vehicle overhang areas of any adjacent parking lot.
 2. In no instance shall outside display of merchandise be located within, nor encroach upon, a fire lane, maneuvering aisle, or a parking space necessary to meet the minimum parking requirements of the other use(s) of the lot or parcel.
 3. Outside display shall be situated so as not to create a visibility obstruction to moving vehicles within a parking lot. Where outside display is located at the intersection of two (2) or more maneuvering aisles within a parking lot, the displayed merchandise shall not exceed 30 inches in height above the grade level of the parking lot.
 4. Outdoor display items may be located in the side and rear setbacks, but at least five feet (5') from the property line, except if the subject property is adjacent to residential use or district, then the applicable district setback shall remain in effect.
 5. Outdoor display items may be located in the front yard setbacks, but at least ten feet (10') from the front property line.
 6. All site lighting shall comply with **Section 3.10**. Featured "display, directional lighting" of items must be turned off during the hours of 11:00 PM and 7:00 AM. Example: A new car on display outside a dealership, with special lighting to bring attention to the new design. This type of lighting would be considered "display or directional lighting" and should be directed to minimize light trespass on the neighboring property. This does not include security lighting.
 7. Outside equipment must be displayed in rows with at least 2 feet between display items.
- D. In all districts where the outside display of goods is not permitted by right, a property owner may apply for a temporary permit for 90 days, renewable once during the calendar year.

SECTION 3.24 MEDICAL USE OF MARIHUANA OR MARIJUANA

- A. Intent and Purpose. With the enactment of the Michigan Medical Marijuana Act (hereinafter referred to as the “MMMA”), Initiated Law 1 of 2008, MCL 333.26423, *et seq*, and its administrative rules, R 333.101, *et seq*, the Village of Bellaire Zoning Ordinance has not kept pace with this recent legislation. As a result, the purpose of this section is to implement land use regulations to address the medical use of marijuana as authorized by the MMMA.
- B. Regulations for Qualifying Patients. The medical use of marijuana by a qualifying patient in that qualifying patient’s dwelling is hereby recognized as an accessory use to the principal residential use of the dwelling and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:
1. The qualifying patient must be issued and at all times must maintain a valid registry identification card by the Michigan Department of Community Health or successor agency under the provisions of the MMMA.
 2. All marijuana plants or products must be contained within the dwelling in an enclosed, locked facility that permits access only by the qualifying patient.
 3. If a room with windows within the dwelling is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
- C. Regulations for Primary Caregivers. The medical use of marijuana by a primary caregiver is hereby authorized as a home occupation by right in any zoning district, provided that all of the following regulations are met:
1. The primary caregiver must be issued and at all times must maintain a valid registry identification card by the Michigan Department of Community Health under the provisions of the MMMA.
 2. The primary caregiver must obtain a zoning permit under **Section 10.02** of this Ordinance.
 3. All marijuana plants or products must be contained within the dwelling in an enclosed, locked facility that permits access only by the primary caregiver.
 4. If a room with windows within the dwelling is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
 5. No more than one (1) primary caregiver shall be permitted to function as a home occupation servicing qualifying patients within a dwelling.
 6. No more than two (2) qualifying patients may be present at any one time at a dwelling in which a primary caregiver is functioning as a home occupation.
 7. Qualifying patient visits to a dwelling in which a primary caregiver is functioning as a home occupation shall be restricted to between the hours of 7 a.m. and 8 p.m.
 8. No qualifying patients under the age of 18 (eighteen) shall be permitted at any

time at a dwelling in which a primary caregiver is functioning as a home occupation, except in the presence of his/her parent or guardian.

9. No marijuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the dwelling in which a primary caregiver is functioning as a home occupation, except when the qualifying patient resides with the primary caregiver at the dwelling. Except as provided herein, the primary caregiver shall deliver all marijuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo.
 10. No marijuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a dwelling in which a primary caregiver is functioning as a home occupation, except when the qualifying patient resides with the primary caregiver at the dwelling.
 11. A dwelling in which a primary caregiver is functioning as a home occupation shall display indoors and in a manner legible and visible to his/her qualifying patients:
 - a. A notice that qualifying patients under the age of eighteen (18) are not allowed at a dwelling in which a primary caregiver is functioning as a home occupation, except in the presence of his/her parent or guardian, and
 - b. A notice that no dispensing or consumption of marijuana for medical use shall occur at a dwelling in which a primary caregiver is functioning as a home occupation.
 12. A dwelling in which a primary caregiver is functioning as a home occupation shall not have any outdoor signage that would indicate the nature of the primary caregiver services being conducted in the dwelling.
 13. A dwelling in which a primary caregiver is functioning as a home occupation shall not be located within 1,000 feet of any public or private school, having a curriculum including kindergarten through twelve grade and its accessory structures.
 14. A dwelling in which a primary caregiver is functioning as a home occupation shall not be located within 500 feet of a lot on which any of the following uses are located:
 - a. Any church or place of worship and its accessory structures.
 - b. Any public facility, such as parks and playgrounds.
 15. The portion of a dwelling in which a primary caregiver is functioning as a home occupation, including any room or area utilized to grow marijuana for medical use, shall contain electrical service and wiring meeting the applicable requirements of the electrical code in effect in the village.
- D. Relationship to Federal Law. Nothing within this section is intended to grant nor shall it be construed as granting immunity from federal law.

SECTION 3.25 RESIDENTIAL DEVELOPMENT

In order to preserve the character of the Village of Bellaire and the safety of the residents, residential development projects in all districts shall be subject to the following review process:

All proposed land development projects that involve condominiums, site condominiums, subdivisions, and non-platted land divisions which will result in the establishment four (4) or more condominium units, site condominium units, lots, or parcels within a ten (10) year period of time are subject to site plan review per Article 6, unless developed as a Planned Unit Development, per **Section 8.11**. For purposes of this subsection, condominium units, site condominium units, lots, or parcels that are created for common areas such as roads, pathways, or open spaces and are designated as such by appropriate condominium documents, plat dedications, or deed restrictions, shall not be counted toward the maximum number of site condominium units, lots, or parcels.

SECTION 4.01 Zoning Districts

A. Single Family Residential District R-1

1. Purpose. The purpose of this district and its accompanying regulations is to provide for a stable and sound residential environment on lots of sufficient area to accommodate the Village sewer system. It is further the purpose of this zoning district to create low and medium-density areas for single-family dwelling units, in combination with associated accessory buildings and uses.
2. Permitted and Special Land Uses, See **Section 4.02**
3. Dimensional Restrictions, See **Section 4.03**

B. Multiple Family Residential District R-2

1. Purpose. This zoning district is provided to encourage the development of a sound and stable environment for two-family dwelling units and multiple-family dwelling units including pre-planned apartments, garden apartments or condominium apartment complexes, in combination with associated accessory buildings and uses.
2. Permitted and Special Land Uses, See **Section 4.02**
3. Dimensional Restrictions, See **Section 4.03**

C. High Density Single Family Residential District R-3

1. Purpose. The purpose of this district and its accompanying regulations is to provide for a stable and sound environment for single-family dwelling units at a higher density, in combination with associated accessory buildings and uses. There is no intention to promote, by these regulations, a zoning district of lower quality and desirability than in the “R-1” Zoning District, although a higher density is permitted.
2. Permitted and Special Land Uses, See **Section 4.02**
3. Dimensional Restrictions, See **Section 4.03**

D. Village Commons District VC

1. Purpose. The intent of this zoning district is to recognize the fact that central portions of the Village are not separated into homogeneous land uses. The Village developed with various land uses adjacent to one another out of necessity and prevailing development patterns at their time of development. This district recognizes this “mixed-use” characteristic of the Village Commons and is designed to authorize land uses, in combination with associated accessory buildings and uses, that insure compatibility between residential and more intensive land uses.
2. Permitted and Special Land Uses, See **Section 4.02**
3. Dimensional Restrictions, See **Section 4.03**

E. Commercial District C

1. Purpose. It is the intent of this zoning district to provide regulations governing use and further development of areas in the Village where there are areas of arterial road oriented commercial development. The regulations and conditions contained in this district are designed to promote the economic viability of arterial road oriented commercial areas by encouraging improved site development standards that will provide more safety and convenience for customers. The regulations in this district are also designed to ensure that development in the Commercial district, including associated accessory buildings and uses, will relate harmoniously to surrounding land uses.
2. Permitted and Special Land Uses, See **Section 4.02**
3. Dimensional Restrictions, See **Section 4.03**

F. Central Business District CBD

1. Purpose. The intent of this zoning district is to recognize the fact that the downtown portion of the Village requires differing regulations due to the high density of structures. This district recognizes a “mixed-use” characteristic of the existing structures of this district and is designed to continue and authorize future mixed land uses, in combination with associated accessory buildings and uses in this higher density area.
2. Permitted and Special Land Uses, See **Section 4.02**
3. Dimensional Restrictions, See **Section 4.03**

G. Manufacturing District M

1. Purpose. This zoning district is intended to accommodate industrial uses, in combination with associated accessory buildings and uses, for the Village and surrounding area of Antrim County in such a manner that no unreasonable, noise, odor, dust, vibration or any other like nuisance shall exist to adversely affect any adjoining properties.
2. Permitted and Special Land Uses, See **Section 4.02**
3. Dimensional Restrictions, See **Section 4.03**

H. Conservation Reserve District CR

1. Purpose. The purpose of this district and its regulations is to preserve State and Village park and recreation uses, in combination with associated accessory buildings and uses.
 2. Permitted and Special Land Uses, See **Section 4.02**
 3. Dimensional Restrictions, See **Section 4.03**
-

SECTION 4.02 Table of Land Uses by Zoning District

P=Permitted Use SP= Special Land Use

Land Uses		Zoning Districts							
		R-1	R-2	R-3	VC ²	C	CBD ²	M	CR
		Single Family Residential	Multiple Family	High-Density Single Family	Village Commons	Commercial	Central Business	Manufacturing	Conservation Reserve
A.	Residential Uses								
1.	Single Family Dwellings	P	P	P	P				
2.	Two Family Dwellings		P		P				
3.	Multiple Family Dwellings		P		SP	P			
4.	Residential Development	See Section 3.25							
5.	Upper floor dwelling(s)				P	P	P		
6.	Manufactured Housing Community					P			
7.	Planned Unit Developments	SP ¹	SP ¹	SP ¹	SP	SP	SP		
8.	Rooming and Boarding Houses		SP	SP	SP				
9.	Bed and Breakfast	SP	SP	SP	P				
10.	Accessory Dwelling Unit	SP	P	SP	SP	SP			
11.	State Licensed Residential Facilities	P	P	P					
12.	Dependent Care Facility, including assisted living				SP				
13.	Residential Care Facilities serving 7 or more	SP	P	SP	SP				
B.	Small Scale/home-based Commercial Uses								
1.	Home Occupations	Allowed within any dwelling, per Section 3.07							
2.	Cottage Industry	SP	SP	SP	SP				

Land Uses	Zoning Districts							
	R-1	R-2	R-3	VC ²	C	CBD ²	M	CR
	Single Family Residential	Multiple Family	High-Density Single Family	Village Commons	Commercial	Central Business	Manufacturing	Conservation Reserve
C.	Public/Institutional Uses/Utilities							
1.		P	SP	P	P			
2.	SP	P	P	P	P			P
3.		P	P	P	P	P		
4.				P	P	P		
5.	P	P	P	P				P
6.				P				P
7.							SP	
8.							SP	SP
D.	Commercial Recreation Uses							
1.				P	P			
2.				P	P			
3.					SP		P*	SP
4.								P
5.					SP			SP
E.	Commercial Uses							
1.				SP	P	P		
2.				SP	SP			
3.				SP*	SP*		P	

Land Uses	Zoning Districts								
	R-1	R-2	R-3	VC ²	C	CBD ²	M	CR	
	Single Family Residential	Multiple Family	High-Density Single Family	Village Commons	Commercial	Central Business	Manufacturing	Conservation Reserve	
Commercial Uses (continued)									
4.	Mobile Food Vending				SP	SP	SP	SP	
5.	Hotel, Motel or Lodge				P	P			
6.	Professional or Business Office (such as real estate, bank, accounting, attorney, medical, dental, or financial services)		SP		P	P	P		
7.	Personal Services (such as barber, beauty, laundry, or dry cleaning drop-off)* [Added 12-06-2017 by Ord. No. #ZO 2 of 2017, eff. 12-22-2017]				P	P	P	P*	
8.	Retail outlet with gross floor area of 5,000sf or less (such as food, drug, gift shop, apparel, sporting goods, copy shop, or workshop) without outside storage.				P	P	P		
9.	Any business with drive through service.				SP	SP			
10.	Automotive Service (fueling station, automobile washing facility, oil change, automotive repair) without outside storage				SP	P		P	
11.	Automotive Service <u>with</u> outside storage				SP	SP		P	
12.	Vehicle Sales or Leasing (new or used vehicles, including automobiles, motorcycles, recreational vehicles, snowmobiles or motorized watercraft)				SP	P		P	
13.	Veterinary Services without outdoor board or dog runs					P			
14.	Veterinary Services <u>with</u> outdoor board or dog runs					SP		P	
15.	Sexually Oriented Business					SP			
16.	Commercial Uses with outdoor storage (such as building				SP	SP		P	

Land Uses		Zoning Districts							
		R-1	R-2	R-3	VC ²	C	CBD ²	M	CR
		Single Family Residential	Multiple Family	High-Density Single Family	Village Commons	Commercial	Central Business	Manufacturing	Conservation Reserve
	tradesperson, landscaping business, nurseries, equipment rental, trucking/transport)								
17.	Warehousing and wholesale establishments							SP	
18.	Storage Facilities					SP		SP	
19.	Production, processing, assembly, manufacturing, or packaging of goods or materials							SP	
20.	Refuse Collection/Recycle Center/Transfer Station							SP	
21.	Watercraft, motor or related marine repair establishment, and/or watercraft storage					P		P	
22.	Contractor sales office, equipment rental business with inside display areas only.					P		P	
23.	Printing and Publishing Industries					P		P	
24.	Resource Mining and Extraction				SP	SP		SP	SP

Notes

1. Residential PUDs without non-residential uses are permitted in R-1, R-2 & R-3 Zoning Districts.
2. In the Central Business District (CBD), the Village Commons District (VC), and the Manufacturing District (M) a combination of the listed uses in each district are allowed in that district, subject to the applicable zoning approval. The most restrictive or comprehensive approval process for any of the proposed uses shall control. [Amended 12-6-2017 by Ord. No. #ZO 2 of 2017, eff. 12-22-2017.]

SECTION 4.03 Schedule of Regulations

Zoning District	District Name	Minimum Lot Area		Maximum Height of Structure (f)(h)		Minimum Setbacks** (a)(g)(j)			Minimum dwelling width (b)
		Area	Width	Stories	Feet	Front	Side	Rear	Feet
R-1	Single Family Residential	6,000 sf	50'	3	35'	15'	5' (c)	10' (d)	20' (i)
R-2	Multiple Family Residential			3	35'	15'	20' (c)	20'	14'
R-3	High Density Single Family Residential	5,000 sf	50'	3	35'	15'	5' (c)	15'	14'
VC	Village Commons	6,000 sf	50'	3	35'	15'	5' (c)	15'	20' (i)
C	Commercial	20,000 sf	100'	3	35'	25' (e)	20'(c)	30'	--
CBD	Central Business District	2,500 sf	25'	3	35'	None	None	5'	--
M	Manufacturing	½ acre*	100**	3	35'	25'	20' (c)	25'	--
CR	Conservation Reserve	Parks, forest, open space, may include structures							

Footnotes:**

- (a) For lots which border on the river, a 25' setback is imposed from the Ordinary High Water Mark.
- (b) Exclusive of unenclosed porches, garages, basements and patios
- (c) Side yard setback (on the street side) shall be the same as the front setback on the lot.
- (d) For parcels immediately adjacent to the Bellaire walking path, the setback for accessory buildings shall be reduced to a minimum of five (5) feet.
- (e) Front setback shall be reduced to allow the front of a new building to align with existing buildings located on immediately adjacent lots, but cannot be located within road right-of-way
- (f) Ornamental architectural features, not used for human occupancy, such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments shall not be subject to the height limitations of this Section, but shall be subject to the applicable provisions of this Ordinance and the Antrim County Airport Zoning Ordinance.
- (g) Chimneys, flues, cornices, eaves, gutters and similar features may extend a maximum of twenty-four (24) inches into the required setback, provided the foundation location complies with the required setback.
- (h) Noncommercial towers, alternative tower structures, transmission and communication towers, noncommercial wind turbine generators, and commercial wind turbine generators shall not be subject to the height limitations of this Section, but shall be subject to the applicable provisions of this Ordinance and the Antrim County Airport Zoning Ordinance.
- (i) The minimum dwelling width may be reduced when proposed as part of a Planned Unit Development and is subject to Planning Commission approval.
- (j) In addition to the required setbacks specified in this Schedule of Regulations, each corner lot in every zoning district shall establish and maintain a clear vision area on the lot. The clear vision area shall be the area between the intersection of the front and side lot lines and an imaginary line drawn between two (2) points on the front and side lot lines measured 25' from the intersection of the front and side lot lines.

*[Amended 12-6-2017 by Ord. No. #ZO 2 of 2017, eff. 12-22-2017]

**[Amended 11-6-2019 by Ord. No. #ZO 1 of 2019, eff. 11-22-2019]

SECTION 4.04 Zoning Map and Rules of Interpretation

A. Zoning Map

The areas assigned to each Zoning District and the boundaries thereof shown on the map entitled "Village of Bellaire Zoning Map, Antrim County, Michigan" are hereby established, and said map and all proper notations and other information shown thereon are hereby made a part of this Zoning Ordinance.

B. Boundaries of Districts

Unless otherwise specified, the boundary lines of the Zoning Districts shall be interpreted as following along section lines, or customary subdivisions of sections, or centerlines of highways or streets, or the shoreline of waterways, or property lines of legal record at the office of the Antrim County Register of Deeds on the date of the enactment of the Zoning Ordinance. The official Zoning Map shall be the final authority in any dispute concerning district boundaries. The official map shall be kept up to date, with any amendments to the Ordinance involving changes to the official map noted and portrayed on said map.

The official zoning map, including legally adopted amendments, shall be designated as such by the signature of the Village Clerk. Where uncertainty exists as the exact district boundaries, the following shall prevail:

1. Where boundary lines are indicated as approximately following streets, alleys, or highways; the center lines of the said streets, alleys, or highways shall be considered to be exact boundary lines.
2. Boundaries indicated as approximately following lot lines shall be considered to follow said lot lines.
3. Where the application of the above rules leave a reasonable doubt as to the exact location of a district boundary, the provisions of the more restrictive district shall govern the entire parcel in question, unless determined otherwise by the Zoning Board of Appeals.

C. Zoning of Vacated Lands

Whenever any street, alley, highway, or other public right-of-way within the Village has been abandoned by official government action, such right-of-way lands attach to and become part of the land adjoining. Such right-of-way property shall automatically acquire and be subject to the provisions of the Zoning District of the abutting property. In the case of an abandoned right-of-way which also serves as the district boundary, the centerline of the right-of-way shall be the district boundary.

D. Zoning of Annexed Areas

Whenever any area is annexed to the Village of Bellaire, it will be zoned the same as the immediately adjacent Village parcel. If there are two parcels with different zoning classifications that are contiguous to the newly annexed parcel, the most restrictive shall apply.

E. Zoning District Changes

When district boundaries change, any non-conforming use may continue subject to all other applicable provisions of this Ordinance.

SECTION 5.01 PURPOSE

Nonconformities are uses, buildings, structures, and lots that do not conform to one or more of the requirements of this Ordinance, or any subsequent amendment, which were lawfully established prior to the effective date of this Ordinance, or any subsequent amendment. The purpose of this Article is to specify the terms and conditions under which a nonconformity is permitted to continue to exist. To that end nonconforming uses, buildings, and structures shall be placed into two classifications, a Class A nonconformity and a Class B nonconformity. The purpose of this Article is to eliminate Class B nonconformities over a period of time, while permitting Class A nonconformities to be used, repaired, replaced, and enlarged under less stringent regulations.

SECTION 5.02 NONCONFORMING USE PERMITTED; COMPLETION ALLOWED

- A. If the use of a building or structure or the use of the land was lawful at the time of enactment of this Ordinance, or any subsequent amendment, then that use may be continued although the use does not conform to the provisions of this Ordinance, or any subsequent amendment, under the terms and conditions of this Article.
- B. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of a building or structure on which substantial construction has been lawfully begun prior to the effective date of this Ordinance, or any subsequent amendment.

SECTION 5.03 CLASSIFICATION OF NONCONFORMITIES

- A. All nonconforming uses, buildings, and structures shall be designated either a Class A nonconformity or a Class B nonconformity. A nonconforming use, building, or structure shall be automatically deemed a Class B nonconformity, unless specifically designated a Class A nonconformity under subsection B. If a Class B nonconformity is damaged or destroyed, the property owner may seek a Class A designation under subsection B after such damage or destruction. The Class B nonconformity shall then be judged for the Class A designation on the nonconformity as it existed prior to the damage or destruction.
- B. A property owner who desires that his or her property be designated a Class A nonconformity shall file an application with the Zoning Administrator requesting the designation. The application shall include the names and addresses of all people and legal entities with an interest in the property, the legal description of the property, the facts that establish the standards for approving a Class A designation have been met, and the fee as provided in **Section 10.04** of this Ordinance. After the Zoning Administrator receives a completed application, he or she shall forward the application to the Planning Commission for consideration. The Planning Commission shall then hold at least one (1) public hearing on the application. The notice of the public hearing shall be the same as for a variance before the Zoning Board of Appeals. The Planning Commission's decision whether to grant the Class A designation shall be based on written findings of fact made pursuant to the standards contained in subsection C. The Planning Commission may attach reasonable conditions to the Class A designation to assure compatibility of the nonconforming use, building, or structure with surrounding property uses. The property owner shall receive no vested interest or rights in the Class

A designation, since that designation may be revoked by the Planning Commission under subsection D.

- C. The Planning Commission shall grant a Class A designation for a nonconforming use, building, or structure if it finds that all of the following standards are met:
1. The nonconforming use, building, or structure was lawful at the time of its inception.
 2. The continuation of the nonconforming use, building, or structure will not significantly and adversely affect surrounding properties and will not significantly depress property values in the immediate area.
 3. If the nonconforming structure is a sign, the nonconformity is due to dimensional regulations other than the limitation on the area of the sign surface or the limitation on the height of the sign.
 4. The nonconforming use, building, or structure does not significantly and adversely impact on steep slopes as regulated in **Section 3.19** of this Ordinance, is not located within the waterfront greenbelt required by **Section 3.18** of this Ordinance, and is not located within a wetland regulated by the State of Michigan or as regulated in this Ordinance.
 5. The nonconforming use, building, or structure is of economic benefit to the Village.
- D. Upon the filing of a request by the Zoning Administrator or by the Planning Commission's own action, a Class A designation shall be revoked by the Planning Commission following the same procedures required for the initial designation upon a finding that as a result of any change of conditions or circumstances the standards for the Class A designation under subsection C no longer qualify the nonconforming use, building, or structure for the Class A designation.

SECTION 5.04 CLASS A NONCONFORMITY REGULATIONS

The following regulations shall apply to all Class A nonconforming uses, buildings, and structures:

- A. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, fixtures, wiring, or plumbing may be performed on any nonconforming building or structure or on any building containing a nonconforming use.
- B. A nonconforming building or structure or a building that contains a nonconforming use which is unsafe or unlawful due to a lack of repairs or maintenance, as determined by the Zoning Administrator or County Building Official, may be restored to a safe condition.
- C. If a nonconforming building or structure (including a nonconforming sign) or a building that contains a nonconforming use is damaged or destroyed by any means or is removed by the property owner, then such nonconforming building or structure may be restored, rebuilt, or repaired to no greater than its original configuration and on its original foundation or footprint.
- D. A nonconforming building or structure or a building that contains a nonconforming use may be enlarged or altered in any way, provided such enlargement or alteration does not increase the degree or extent of any nonconformity for both the horizontal and vertical planes.

- E. A nonconforming use shall not be extended to any portion of the lot that was not lawfully occupied by such nonconforming use on the effective date of this Ordinance, or any subsequent amendments, creating such nonconformity, unless in complete conformity with the requirements of this Ordinance. However, a nonconforming use may be extended throughout any part of a building, which was designed for such use, and which existed at the time the use became nonconforming.
- F. A Class A nonconforming use, building, or structure may be replaced by another Class A nonconforming use, building, or structure if the Planning Commission finds, following the procedures of **Section 5.03.B**, that the new nonconforming use, building, or structure qualifies for a Class A designation and that the new nonconforming use, building, or structure will not increase the extent or intensity of the nonconformity on the property.

SECTION 5.05 CLASS B NONCONFORMITY REGULATIONS

The following regulations shall apply to all Class B nonconforming uses, buildings, and structures:

- A. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, fixtures, wiring, or plumbing may be performed on any nonconforming building or structure or on any building containing a nonconforming use.
- B. A nonconforming building or structure or a building that contains a nonconforming use which is unsafe or unlawful due to a lack of repairs or maintenance, as determined by the Zoning Administrator or County Building Official, may be restored to a safe condition.
- C. If a nonconforming building or structure (other than a nonconforming sign) or a building that contains a nonconforming use is damaged or destroyed by any means or any portion of the building or structure is removed by the owner to the extent that the cost of necessary repairs or reconstruction will exceed forty percent (40%) of the replacement cost of the entire nonconforming building or structure before the damage, destruction, or removal of any portion thereof, as determined by a qualified appraiser, then such nonconforming building or structure or building that contains a nonconforming use shall only be repaired, remodeled, or reconstructed in complete conformity with the provisions of this Ordinance, unless the cost of such repair, remodeling, or reconstruction exceeds 150% of the replacement cost of the entire nonconforming building or structure before any damage, destruction, or removal as determined by a qualified appraiser. If the cost of any repair, remodeling, or reconstruction exceeds 150% of the replacement cost of the entire nonconforming building or structure as specified above, then the Zoning Administrator shall require the nonconforming building or structure or building that contains a nonconforming use to be repaired, remodeled, or reconstructed in such a manner or in such location as to maximize conformity with the provisions of this Ordinance without exceeding the 150% limitation specified above.
- D. If a nonconforming sign is damaged or destroyed by any means or is removed by the owner to the extent that the cost of necessary repairs will exceed twenty percent (20%) of the replacement cost of the sign, then such nonconforming sign shall only be repaired or reconstructed in complete conformity with the provisions of this Ordinance.
- E. Except for repairs or maintenance authorized under subsections A and B above, a nonconforming building or structure or a building that contains a nonconforming use

shall not be enlarged or altered, unless in complete conformity with the requirements of this Ordinance.

- F. A nonconforming use shall not be extended to any portion of the lot or extended throughout any part of a building in which it is located that was not lawfully occupied by such nonconforming use on the effective date of this Ordinance, or any subsequent amendments, creating such nonconformity, unless in complete conformity with the requirements of this Ordinance.
- G. A Class B nonconforming use, building, or structure may not be replaced by another Class B nonconforming use, building, or structure. However, a Class B nonconforming use, building, or structure may be replaced with a Class A nonconforming use, building, or structure if the Planning Commission finds, following the procedures of **Section 5.03.B**, that the new nonconforming use, building, or structure qualifies for a Class A designation and that the new nonconforming use, building, or structure will not increase the extent or intensity of the nonconformity on the property.

SECTION 5.06 CHANGE OF NONCONFORMITY

If a nonconforming use, building, or structure is changed to a more conforming use, building, or structure or is replaced by a conforming use, building, or structure, the nonconforming use, building, or structure shall not revert to its original nonconforming status.

SECTION 5.07 NONCONFORMING LOT OF RECORD

The following regulations shall apply to all nonconforming lots of record:

- A. Except as provided in subsection B below, any lot which does not meet the dimensional requirements of the district in which it is located may be used for any purpose authorized within that district. Any required variances may be requested pursuant to the procedures and standards of this Ordinance.
- B. If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance.

SECTION 5.08 ABANDONMENT OF A NONCONFORMITY

If a property owner has an intent to abandon a nonconforming use, building, or structure and in fact abandons this nonconforming use, building, or structure for a period of one (1) year or more, then any subsequent use of the building, structure or property shall conform to the requirements of this Ordinance. When determining the intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

- A. Whether utilities, such as water, gas, and electricity to the property have been disconnected.

- B. Whether the property, buildings, and grounds have fallen into disrepair.
- C. Whether signs or other indications of the existence of the nonconforming use have been removed.
- D. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
- E. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

SECTION 6.01 PURPOSE

It is the purpose of this article to specify standards, data requirements, and the review process which shall be followed in the preparation of site plans and plot plans as required by this Ordinance.

SECTION 6.02 APPROVAL OF SITE PLAN OR PLOT PLAN REQUIRED

- A. Planning Commission Approval for Site Plans:** Site plan approval by the Planning Commission (PC) is required prior to the issuance of a Zoning Permit, for the following land uses:
1. All new uses by right within the Village Commons (VC), Commercial (C), Central Business (CBD) or Manufacturing (M) zoning district, excluding new single family dwellings.
 2. All uses by right, excluding single family dwellings and associated accessory structures, where one or more of the following conditions exist:
 - a. The site has steep slopes (18 percent or greater), within twenty (20) feet of the proposed development activity.
 - b. The proposed development is on a site which is subject to local or state regulations concerning wetlands.
 3. All special land uses, as specified in each zoning district, including planned unit developments, whether new development or a change of use, except as otherwise specified in this Ordinance.
 4. All uses for which this Ordinance requires five (5) or more off-street parking spaces.
 5. All residential development projects with multiple single and/or two family dwellings associated with new parcel division(s) based on the Land Division Act, as amended.
 6. All condominium subdivisions subject to P.A. 59 of 1978, the Condominium Act, as amended.
 7. Expansion or renovation of an existing use, other than one-family or two family residential use, which increases the existing floor space more than twenty-five (25) percent.
 8. Any change of use, unless determined to qualify as minor change.
- B. Zoning Administrator Approval for Plot Plans:** Plot plan approval is required by the Zoning Administrator (ZA), prior to the issuance of a Zoning Permit, for all other uses not listed in **Section 6.02.A(1-8)** above, including any site plan amendment or change of use meeting the minor change criteria. A plot plan is required for the reopening of a business or establishment of a new business when the structure has not been used for a business for 12 months or greater. The Zoning Administrator shall review such plans in accordance with the standards specified in **Section 6.05**, and may at his/her discretion defer such a plot plan review to the Planning Commission. For existing structures proposed for reuse, the Zoning Administrator shall have the authority to waive any plot plan data requirements as specified in **Section 6.03.B.2**.

SECTION 6.03 DATA REQUIREMENTS

A. Plot Plan and Site Plan Data Required

Required Data Description	<u>Plot Plan</u> ZA Approval	<u>Site Plan</u> PC Approval	Comments
Contact Information for Applicant and Owner (if different)	X	X	
General Information Vicinity sketch showing site relationship to surrounding streets and land uses within 300'	X	X	
PROJECT DESCRIPTION	X	X**	<i>Basic project description can NOT be waived</i>
Description of proposed uses of structures and land	X	X	
Number of dwelling units, sleeping rooms, occupants, employees (by shift), other users	X	X	
Number of square feet, total usable floor area	X	X	
Location, quantity and type of recreation and open space		X	
Outdoor gatherings – description and anticipated participant levels	X	X	
Property Information			
Location, shape, area, dimensions	X	X	Readable scale drawing
Property survey (including dimensions) and legal description, prepared and sealed by a professional surveyor		X	<i>Only the survey can be waived or modified</i>
Yard, open space, parking lot and space dimensions, number of parking spaces, and loading areas	X	X	
STREETS, DRIVEWAYS AND EASEMENTS			
Driveways, parking and vehicle stacking areas when required	X	X	
Drainage – county drains and site drainage	X	X	
Easements and deed restrictions for existing public or private rights-of-way	X	X**	<i>Can NOT be waived</i>
Proposed streets and alleys	X	X	
Proposed traffic control measures		X	
UTILITIES			
Location of all utilities		X	
Location of any well, septic system, drain field, and/or temporary sanitary facilities	X	X	
Storm drainage and storm water management plan, including drains, dry wells, catch basins, retention/detention areas, point of discharge for drain		X	
Lighting – location, area of illumination, fixture type and shielding		X	

(Continued from previous page)

Required Data Description (cont'd)	Plot Plan ZA Approval	Site Plan PC Approval	Comments
NATURAL RESOURCES AND FEATURES			
Natural features – such as: woodlands, floodplains, lakes, streams, steep slopes (18 percent), sensitive areas, wetlands	X	X	
Creeks, streams, lakes, ponds and wetland areas within 1,500 feet of property	X	X	
MISCELLANEOUS			
Landscaping plan – location of plants to be preserved, proposed plantings, screening, fences and lighting		X	
Storage location, specifications and containment systems for chemicals, salts, or flammable materials, or hazardous materials		X	
Structure Information (existing and proposed)			
Location, dimensions, height, bulk	X	X	
Proposed structure use	X	X	
Location and size of any waterfront structures and docks	X	X	
Existing man-made features – indicate which are to be retained, removed or altered.		X	
Accessory structures including fences and sheds— size, location and use	X	X	
Trash receptacles – size, location and screening		X	
Signs – type, size and location	X	X	
ADDITIONAL INFORMATION			
Fire and safety preplan coordinated with Fire Chief	X	X	<i>Can NOT be waived</i>
List of all other federal, state, and local permits and current status of required approvals		X**	<i>Can NOT be waived</i>
Expected project completion schedule		X**	<i>Can NOT be waived</i>
Other information deemed necessary by PC to determine compliance with this Ordinance		X**	<i>Can NOT be waived</i>

** Sections (or portions thereof) which shall NOT be modified or waived

Waiver Notes:

1. Planning Commission approval of a request for waiver and/or modification of data required from the applicant in no way releases the applicant from the requirements contained in this Ordinance.
2. For each request for modification or waiver of data requirements, the applicant shall provide to the Planning Commission, in writing, its rationale using findings requirements listed in **Section 6.03.B.3**.
3. Prior to submission of an application to the Zoning Administrator, the applicant shall provide a written preliminary project description to the Planning Commission seven (7) days in advance of a scheduled meeting which includes applicant's rationale for requested data modifications or waivers. The applicant shall attend

the meeting at which the request is to be considered. The Planning Commission may make a site visit.

4. The Planning Commission is under no obligation to waive or modify any data requirement.

B. Data Waivers

1. The Planning Commission may waive, in whole or in part, or modify any of the above site plan requirements, except as specified otherwise, where at least one of the findings (**Section 6.03.B.3**) is documented, including the rationale for each finding.
2. The Zoning Administrator may waive, in whole or in part, or modify any of the above plot plan requirements when the application utilizes an existing structure, except project description and fire and safety preplan, where at least one of the findings (**Section 6.03.B.3**) is documented, including the rationale for each finding.
3. Findings Requirements
 - a. The requirement is not applicable to the proposed development.
 - b. The data will serve no useful purpose and/or no good public purpose will be achieved by requiring strict conformance with the listed requirement.
 - c. Circumstances have not significantly changed on the property since the last time detailed information on the site was submitted.
 - d. Another reasonable circumstance or condition exists.

SECTION 6.04 SITE PLAN REVIEW PROCEDURES

A. Submittal, Completeness Review and Distribution of Site Plans

1. The applicant shall consult with the Zoning Administrator prior to submitting an application to review the process and determine if any additional agencies will need to review the proposed site plan.
2. Three (3) copies of the application, site plan and the required fee shall be submitted to the Zoning Administrator. The Planning Commission Chair (or designated agent(s) and/or consultants) and Zoning Administrator shall review the application and site plans for completeness.
3. If such application or plans are not complete according to **Section 6.03**, a written notice shall be provided identifying the inadequacies of the plans and any additional information required.
4. Upon determination of a complete application and site plan, a total of up to 12 identical sets of the application, site plan and supporting documentation shall be submitted to the Zoning Administrator. If the initial review copy is deemed complete, the ZA shall have the authority to only require up to an additional 9 sets for a total of 12 copies.
5. Upon receipt of an adequately completed application and plans, the Zoning Administrator shall record the date of their receipt and transmit five (5) copies to the Planning Commission, one (1) copy to the Village Clerk, and one (1) copy to each of the following for review and approval based on applicable codes and

adopted standards, and additional health and safety recommendations, as applicable:

- a. Bellaire District Fire Department Chief, or his/her designee
- b. Village of Bellaire DPW, County Road Commission and/or MDOT
- c. Antrim County Soil Erosion Officer
- d. Antrim County Drain Commissioner
- e. Health Department
- f. Other agencies as may be relevant, including the Department of Natural Resources or Department of Environmental Quality and the Natural Resources Conservation Service. The remaining copies shall be retained by the Zoning Administrator.

** Based on the nature and complexity of the proposed project, the ZA shall have the authority to reduce the total number of sets required to not less than seven (7).

- B. **Review:** The Planning Commission shall review the application and plans and determine their conformity with the applicable provisions of this Ordinance and the provisions of **Section 6.05**.
- C. **Action:** After conducting a review, the Planning Commission shall reject, approve, or conditionally approve the site plan, as it pertains to requirements and standards contained in the Zoning Ordinance. Any conditions required by the Planning Commission shall be stated in writing and shown on the site plan, together with the reasons, and delivered to the applicant. Decisions by the Planning Commission shall be made within sixty (60) days of the receipt of the completed application unless, in the opinion of the Planning Commission, an extension of time is necessary to adequately collect and review information pertinent to a decision. A site plan shall be approved if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to the Ordinance, other Village planning documents, other applicable ordinances, and state and federal statutes.
- D. **Approved Site Plans:** Three (3) copies of the approved site plan, with any conditions contained within, shall be maintained as part of the Village records for future review and enforcement. Each copy shall be signed and dated with the date of approval by the Chairperson of the Planning Commission and the applicant for identification of the approved plans. One (1) copy shall be returned to the applicant. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Village records as a part of the site plan and delivered to the applicant for information and direction.

SECTION 6.05 SITE PLAN APPROVAL STANDARDS

Each site plan shall conform with the applicable provisions of this Ordinance and the standards listed below:

- A. The site plan shall comply with the Village of Bellaire Master Plan and any other

- applicable Village adopted planning documents.
- B. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 - C. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material, and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas. Landscape elements shall minimize negative impacts. Landscaping, buffering, and screening shall conform with the requirements of this Ordinance.
 - D. Special attention shall be given to proper site drainage so that removal of storm waters will not increase off-site sedimentation or otherwise adversely affect neighboring properties.
 - E. The site plan shall provide reasonable, visual, and sound privacy for the proposed development, as well as the adjacent properties. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
 - F. A fire and safety preplan review shall be required and coordinated by the applicant with the Bellaire District Fire Department chief or his/her designee.
 - G. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access.
 - H. Every building or dwelling unit shall have access to a public street, private road, walkway, or other area dedicated to common use.
 - I. Walkways shall be provided, separate from the road system, where feasible.
 - J. Exterior lighting shall be designed and arranged so that it is deflected away from adjacent streets and adjoining properties, and shall be directed downward so as not to unnecessarily illuminate the night sky. Flashing or intermittent lights shall not be permitted.
 - K. The proposed arrangement of vehicular and pedestrian routes shall respect the pattern of existing or planned streets and nonmotorized pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way.
 - L. All streets shall be developed in accordance with Village specifications.
 - M. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at access and egress points to intersecting streets, including the use of service drives as appropriate, and minimize the negative visual impact of such parking areas.
 - N. Residential and nonresidential development shall not include unnecessary curb cuts and shall use shared drives and/or service drives where the opportunity exists unless precluded by substantial practical difficulties.
 - O. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Locational requirements shall include underground facilities to the greatest

extent feasible.

- P. Site plans shall conform to all applicable requirements of state and federal statutes, and approval may be conditioned on the applicant receiving necessary state and federal permits before the Zoning Permit is issued.
- Q. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment, including:
1. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, ground water, lakes, streams, rivers, or wetlands.
 2. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
 3. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.

SECTION 6.06 CONFORMITY TO APPROVED SITE PLANS

Following the approval of a site plan by the Planning Commission, and the issuance of the Zoning Permit by the Zoning Administrator, the applicant shall construct the site plan improvements in complete conformity with the approved site plan. Failure to do so shall be deemed a violation of this Ordinance.

SECTION 6.07 CHANGES AND APPEALS

- A. **Amendment to the Site Plan:** No changes shall be made to an approved site plan prior to or during construction except upon mutual agreement between the applicant and the Planning Commission or Zoning Administrator, according to the following procedures:
1. **Major Changes:** Major changes or amendments to an approved Site Plan are those changes that significantly alter the approved design or layout and/or increase the intensity or impact beyond what was originally approved. Major changes shall include changes in the location or extent of walkways, vehicular circulation ways and parking areas, or exterior building and structure walls if such changes will impact the original approval standards or conditions or approval, or negatively impact neighboring properties; the number and location of accesses to public streets and alleys; an increase in the number of parking spaces; an increase in the gross floor area or heights of buildings; a reduction in the open space; and similar major changes. All major changes shall require an application process, the same as the original application approval process, and shall be approved by the Planning Commission upon finding that all of the following are met:
 - a. Such changes will not adversely affect the initial basis for granting approval;
 - b. Such changes will not adversely affect the overall project in light of the intent and purpose of such development as set forth in this Article; and

- c. Such changes shall not result in the reduction of open space area as required herein.

Minor changes to an approved Site Plan upon which the Zoning Administrator defers judgment to the Planning Commission shall be treated as a major change.

2. **Minor Changes:** Minor changes to an approved Site Plan (including a Site Plan associated with a Special Use Permit approval) which still meet all Zoning Ordinance requirements and the conditions of the original approval, in addition to not meeting the major change criteria listed in 6.07.A.1 above, may be approved by the Zoning Administrator. The Zoning Administrator may at his or her discretion request the Planning Commission to review the proposed minor change.
- B. **Amendments to a Plot Plan:** The Zoning Administrator shall review proposed changes to an approved Plot Plan in accordance with the same procedures, requirements, and standards used by the Planning Commission as specified in **Section 6.05**. Changes to a Plot Plan which contain elements which require Site Plan approval according to **Section 6.02.A** shall require that the entire project be processed as a Site Plan according to the procedures of **Section 6.04**.
- C. **Appeals:** With regard to Site Plan and Plot Plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the manner as other administrative decisions, per **Article 9**.

SECTION 7.01 PURPOSE AND INTENT

It is the intent of this Article to provide a set of procedures and standards for the review of special land uses which provide control and reasonable flexibility based on the specific uses of land or structures, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. By such a procedure, the Planning Commission shall have the opportunity to impose conditions upon each use as deemed necessary for the protection of the public welfare. Such conditions shall be based on standards in this Ordinance.

Approval standards for special land uses are included in **Section 7.03**, Standards for Granting Special Use Permit, and additional supplemental development standards for specific development uses, including planned unit developments are included in **Article 8**, Supplemental Site Development Standards.

SECTION 7.02 SPECIAL USE PERMIT PROCEDURES

Uses requiring a Special Use Permit shall be subject to the general provisions and supplemental site development standards of this Ordinance, the provisions of the Zoning District where located and applicable provisions of this Article to prevent conflict with or impairment of the other uses or uses permitted by right of the district. Each use shall be considered an individual case.

- A. **Application Procedure:** An application for a zoning permit for any special land use or structure identified as such in a particular zoning district shall be submitted and processed under the following procedures.
1. **Pre-Application Conference:** A pre-application conference shall be held to discuss the applicant's objectives and how these may be achieved under the Ordinance, before a Special Use Permit application is submitted. This conference shall be scheduled upon request by the applicant. Participants in this conference shall include the applicant, the site designer, the Zoning Administrator, the Planning Commission chair (or designee) and Village consultants, as deemed necessary by the Planning Commission Chair. The applicant may prepare a conceptual rough sketch plan for this session; however, no engineered site plans or surveys will be considered at the pre-application conference. If necessary, a site visit may be scheduled at this conference. Concepts and statements presented at the pre-application conference shall not be legally binding on any party. In order for any proposal to be formally considered, the applicant shall submit an application based on the requirements of **Section 7.02.A.2** below, after the pre-application conference.
 2. **Submission of Application:** An application with the following materials shall be submitted to the Zoning Administrator on a specific form for that purpose at least thirty (30) days prior to the meeting at which the Planning Commission first considers the Special Use Permit application:
 - a. Special Use Permit Application form supplied by the Zoning Administrator
 - b. Payment of a fee, per **Section 10.04**
 - c. Site plan meeting the requirements of **Section 6.03**

- d. Written statement of analysis regarding the estimated population holding capacity of any proposed residential land use, the anticipated impact upon community services—and infrastructure, including availability of needed sewer capacity, impact upon neighboring land uses and streets, and the anticipated impact upon on-site and adjacent natural resources.
- B. **Check for Completeness and Accuracy:** Within ten (10) working days of the receipt of the submission of an application, the Planning Commission Chair (or designated agent(s) and/or consultants) and the Zoning Administrator shall determine whether it is in proper form and contains required information for a complete application for Planning Commission consideration. Once deemed to be complete, copies of the application materials shall be submitted per **Section 6.04**.
- C. **Notice Requirements for Planning Commission Public Hearings:** The notices for all public hearings before the Planning Commission concerning requests for Special Use Permits and planned unit developments shall comply with all of the following:
 1. The content of the notice shall include all of the following information:
 - a. A description of the nature of the proposed special use or planned unit development request.
 - b. A description of the property on which the proposed special use or planned unit development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - c. The time, date, and place the proposed special use or planned unit development request will be considered.
 - d. The address where written comments will be received concerning the proposed special use or planned unit development request and the deadline by which such comments must be received.
 2. The notice shall be published in a newspaper of general circulation within the Village not less than 15 days before the scheduled public hearing. The notice shall also be posted on the Village website in accordance with the Open Meetings Act, as amended.
 3. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing.
 4. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the proposed special use or planned unit development will be located and to the occupants of all structures within 300 feet of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Village. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.

5. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 7.03 STANDARDS FOR GRANTING A SPECIAL USE PERMIT

Approval of a Special Use Permit shall be based on the determination that the proposal will comply with all applicable requirements of this Ordinance, including site plan review criteria set forth in **Article 6** and applicable supplemental standards for the specific use set forth in **Article 8**. The Planning Commission shall approve, or approve with conditions an application for a Special Use Permit only upon finding that the proposed special land use complies with the following standards:

- A. Allowed Special Land Use
The property subject to the application is located in a Zoning District in which the proposed special land use is allowed.
- B. Compatibility with Adjacent Land Uses
 - a. The proposed use subject to a Special Use Permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
 - b. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public street or seen from any adjacent land owned by another person.
 - c. If deemed necessary by the Planning Commission, the hours of operation that the special use is allowed to operate, be open or otherwise occur, shall be imposed as a condition of approval to ensure compatibility with the surrounding land uses.
 - d. The proposed use is compatible with the Village of Bellaire Master Plan.
- C. Public Services
 - a. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
 - b. The proposed special land uses will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
- D. Economic Well-Being of the Community
The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.
- E. Compatibility with Natural Environment
The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Village or the natural environment as a whole.
- F. Compliance with Supplemental Development Standards
The proposed special land use complies with all applicable Supplemental Development Standards required under this Ordinance.

- G. Conditional Approvals
The Planning Commission may impose reasonable conditions with the approval of a Special Use Permit, pursuant to **Section 10.06** of this Ordinance.
- H. Meets the Site Plan review requirements of **Article 6** of this Ordinance.

SECTION 7.04 PERFORMANCE GUARANTEE

The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a Special Use Permit, pursuant to **Section 10.05** of this Ordinance.

SECTION 7.05 AMENDMENT OF APPROVED SPECIAL USE PERMITS

- A. **Site Plan:** The site plan, as approved as part of the Special Use Permit, shall become part of the record of approval, and subsequent actions shall be consistent with the approved site plan. Amendments to the approved Special Use Permit, including the site plan, shall comply with the application and review procedures of **Article 6**.
- B. **Use or Activity:** A change in the character of the use or activity from what was originally approved, shall require re-approval (see **Section 6.07** regarding major and minor site plan amendments). Changes requiring a new application and review procedure include, but shall not be limited to:
1. The addition of land to the legal description of the original Special Use Permit;
 2. The establishment of another use or uses;
 3. The addition of more sales or service area, or the addition of dwelling units; and
 4. An expansion or increase in intensity of use.

SECTION 7.06 EXPIRATION OF APPROVED SPECIAL USE PERMIT

- A. An approved Special Use Permit shall expire one (1) year following approval by the Planning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration or the property owner applies to the Planning Commission for an extension prior to the expiration of the Special Use Permit. The Planning Commission may grant one (1) extension of an approved Special Use Permit for an additional one (1) year period if it finds:
1. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
 2. The requirements and standards for Special Use Permit approval that are reasonably related to the development have not changed.
- B. If the Special Use Permit expires pursuant to subsection A above, no work pursuant to the Special Use Permit may be undertaken until a new Special Use Permit is obtained from the Planning Commission following the procedures for a new Special Use Permit.

SECTION 7.07 REAPPLICATION

No application for a Special Use Permit which has been denied, wholly or in part by the Planning Commission shall be re-submitted for a period of one (1) year from the date of such denial, unless a rehearing is granted per **Section 10.07** of this Ordinance.

SECTION 7.08 JURISDICTION OF THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals has jurisdiction to accept appeals of the decision of the Planning Commission with respect to special uses.

SECTION 7.09 SPECIAL USE PERMIT INSPECTION

The Zoning Administrator shall have the right to inspect any special use to ensure continued compliance with the conditions of the Special Use Permit.

SECTION 8.01 PURPOSE

Those Permitted uses and uses allowed by Special Use Permit enumerated in any zoning district, if included below, shall be subject to the following conditions and requirements. The uses listed in this article are only allowed as listed in the **Article 4: Zoning Districts and Regulations**.

SECTION 8.02 ACCESSORY DWELLING

Accessory dwelling as defined in Article II, shall comply with the following regulations:

- A. Residence and Incidental Use: The accessory dwelling shall be clearly incidental to the principal residence or commercial use on the site. Accordingly, the following conditions shall be met:
 - 1. The property must be owner-occupied, i.e. either the principal residence, or commercial use or accessory dwelling must be owner occupied (or owner managed in the case of a commercial use).
 - 2. Only one (1) such accessory dwelling shall be permitted on each parcel.
 - 3. The total floor area of the accessory dwelling shall not exceed eight hundred (800) square feet.
 - 4. The accessory dwelling shall be part of a principal or accessory structure, but shall not solely constitute a separate building.
- B. Compatibility with Surrounding Land Use: The design of the accessory dwelling shall not detract from the character of the area and appearances of the principal residence or commercial structure.
- C. Parking and Access: In addition to required parking for the principal residence, or commercial use, one additional parking space shall be provided for the accessory dwelling.

SECTION 8.03 BED & BREAKFAST FACILITY

Bed and breakfast establishments shall be subject to the following regulations:

- A. Principal Residence: The operator shall live in an on-site dwelling unit when the bed and breakfast facility is in operation.
- B. Maximum Number of Units: No more than eight (8) bed and breakfast sleeping rooms shall be established.
- C. Kitchen Facilities: The bed and breakfast facility shall have centralized kitchen facilities. No kitchen facilities shall be located in the individual rooms.
- D. Building Requirements: A building used for a bed and breakfast establishment shall comply with the following minimum requirements:
 - 1. There shall be at least two (2) exits to the outdoors.
 - 2. Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus an additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.

- E. Parking: An off-street parking spot shall be provided for bed and breakfast unit, in accordance with this Ordinance. Off-street parking in the front yard is prohibited.
- F. Other Regulations: The Bed & Breakfast facility shall meet any applicable regulations, including but not limited to District Health Department and Building Code requirements.

SECTION 8.04 BUSINESSES WITH DRIVE-THROUGH FACILITIES

- A. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that waiting traffic does not extend into the public right-of-way. The stacking spaces shall be located so as not to interfere with general site circulation and egress from the property by vehicles not using the drive-through facility.
- B. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent, which shall effectively screen glare from headlights year-round.
- C. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

SECTION 8.05 GASOLINE / SERVICE STATION

A. Standards

1. The minimum lot area shall be twenty thousand (20,000) square feet, and so arranged that ample space is available for motor vehicles, which are required to wait for services.
2. Automobile service stations shall not be located within five hundred (500) feet of any school.
3. Pump islands shall be a minimum of twenty-five (25) feet from any public right-of-way or lot line.
4. All major repair, lubrication and service work shall be done within an enclosed building.
5. Repair vehicles or vehicles used for parts only, must be moved off the lot or stored in an enclosed building within 30 days of arrival.
6. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a solid wall or fence (see **Section 3.09**).
7. The outside storage of automobiles, trucks or trailers for a period in excess of seventy-two (72) hours, or the sale or rental thereof, is expressly prohibited without specific approval as part of the special use approval.
8. Vacuuming activities shall be at least fifty (50) feet from any adjoining property line.
9. All washing activities must be within a building, with the exception for special events registered with the Zoning Administrator. No vehicle wash establishment shall permit patrons to extend lines of vehicles off the premises.
9. Lighting for parking areas or outdoor activity areas shall be shielded to prevent glare onto any property used or zoned for residential purposes, and shall comply with the provisions of **Section 3.10**.
10. Automobile service and gasoline stations shall comply with sign provisions of this

Ordinance, (Section 3.11).

B. Access Drives

1. No more than two (2) curb cuts shall be permitted directly from any State trunkline or County Road or more than one (1) curb cut from any other public street to provide ingress and egress.
2. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that tend to create traffic hazards on the streets immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured from the street right-of-way) or from adjacent residential districts and not within ten (10) feet of any adjoining property line.
3. A minimum dimension of twenty (20) feet shall separate any two curb cuts giving access to a single street.

SECTION 8.06 JUNK AND SALVAGE MATERIAL STORAGE

- A. Junk Storage: Junk shall be stored, placed or otherwise located only within a completely enclosed building.
- B. Salvage Material Storage: Any open storage yards or areas used for the storage of salvage materials shall be entirely enclosed by an obscuring wall or fence at least eight (8) foot high (see Section 3.09), or a hedge of a minimum height of eight feet. No salvage yard facility (or outside junk storage yard or area) shall be nearer to the exterior boundary of the Manufacturing District than one hundred (100) feet.

SECTION 8.07 KENNELS AND VETERINARY CLINICS/HOSPITALS

- A. All kennels and veterinary clinics/animal hospitals shall be operated in conformance with County and State regulations.
- B. All kennels shall be on sites of at least five (5) acres.
- C. Animals shall be confined in a fenced area to preclude their approaching nearer than five hundred (500) feet to any dwelling on adjacent premises or nearer than fifty (50) feet from the property line, whichever is greater.
- D. Any fenced areas shall be screened from adjacent properties and/or streets with an opaque fence or a vegetated evergreen buffer at least five (5) feet in height.
- E. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.
- F. Animals shall be kept in a soundproof building between the hours of 10 p.m. and 8a.m. All principal use activities shall occur within an enclosed main building.
- G. An adequate, enclosed method of refuse storage and disposal shall be maintained so that no public nuisance shall be created at any time.

SECTION 8.08 MOBILE HOME PARKS

Mobile Home Parks shall be subject to the following conditions:

- A. Mobile Home Parks shall be developed and licensed pursuant to the requirements of the

Michigan Manufactured Housing Commission, Public Act 96 of 1987 and any rules promulgated pursuant to this Act, as amended. This includes but is not necessarily limited to compliance with Michigan Manufactured Housing Commission regulations concerning internal streets, parking requirements, fencing, screening, unit spacing and recreational and open spaces.

- B. To the extent permitted by the Michigan Manufactured Housing Commission, this Ordinance shall require all mobile homes in mobile home parks to be anchored to the ground in accordance with the standards and specifications of the manufacturer and any applicable state and federal statutes and rules.
- C. To the extent permitted by the Michigan Manufactured Housing Commission, this Ordinance shall require the underside or chassis of all mobile homes in mobile home parks to be fully skirted or enclosed with durable, weather-resistant materials, as specified by the manufacturer or as specifically manufactured for use as home skirting, and all such skirting shall be maintained in place as designed.

SECTION 8.09 MOBILE HOMES AND TRAILERS, OTHER USES

Mobile homes, travel trailers and motor homes may be used as follows:

- A. Mobile homes may be used as temporary dwellings until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a Building Permit has been issued (per **Section 3.05**), subject to the conditions of this Ordinance. The temporary dwelling shall be included on the Building Permit, and maintained as long as diligent progress is being made on the main property use, and shall be removed, or stored in compliance with this Zoning Ordinance, upon issuance of an Occupancy Permit for the main use.
- B. Mobile homes may be used as a temporary contractor's office and/or equipment shed in any district when in connection with a construction project and authorized by the Zoning Administrator.
- C. The unoccupied storage of a motor home or travel trailer, not a mobile home, on any residential property by the owner thereof shall be allowable as a permitted accessory use of the premises where there is a main use, provided such storage is confined to the rear yard when the rear yard is accessible. If the rear yard is not accessible, then storage in the side yard is permissible, if no nuisances, hazards, or blocking of views is created for the adjoining property.

SECTION 8.10 OUTDOOR DISPLAY AND STORAGE

- A. Display or storage of goods and materials on private property shall not occur in the required side or rear yard setback areas, unless approved by the Planning Commission based on adequate screening with a fence of 90% opacity or greater, or stored in a manner so as not to impact the neighboring property.
- B. All outdoor storage yards shall be paved or provide a durable dust-free surface approved by the Planning Commission.
- C. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse affect on adjacent properties, water bodies wetlands and drainage ways.

SECTION 8.11 PLANNED UNIT DEVELOPMENTS

- A. **Purpose:** The purpose of the Planned Unit Development is to allow design and use flexibility on a given site while at the same time protecting present and future residents and public facilities from the adverse effects of unplanned or unregulated development. This approach allows the applicant to utilize innovative designs and methods to control the effects of development rather than having rigid numerical zoning standards dictate design parameters. The burden of proving a Planned Unit Development is within the parameters and intent of this Ordinance is completely upon the applicant. The Village of Bellaire Planning Commission is to be the judge of whether or not the design contains sufficient safeguards as to make the effects of the development compatible with the intent of this Ordinance. It is the expressed intent of this section to allow such items as setbacks, yards, parking spaces, and type of dwelling unit and use to be regulated on an overall impact or gross development basis rather than individually for each lot, use, or structure. The purpose of this section ideally allows:
1. Flexibility in the regulation of land development.
 2. Encourage innovation in land use in variety and design, layout, and type of structures constructed.
 3. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
 4. To accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.
 5. To encourage useful open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Village.
 6. In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.
- B. **Eligibility and Area Requirements:** Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a state agency, a PUD shall meet the following requirements:
1. **Permitted Uses:** Planned Unit Developments shall be permitted by Zoning District subject to Special Use Permit approval, as listed in **Section 4.02**. The uses for a given PUD shall be limited to the range of uses provided for within the underlying Zoning District classification. Such uses may be placed either singularly or in combination. In Residential Zoning Districts (R-1, R-2 and R-3), institutional and commercial uses may also be permitted upon the Planning Commission determining the proposed uses are compatible with the character of the PUD and the surrounding area, and provided the non-residential use does not exceed 20% of the PUD development area (i.e. gross land area less the protected open space). In the Commercial and Mixed Use Zoning Districts (VC, C, and CBD) additional institutional and commercial uses may also be permitted on a site specific basis upon the Planning Commission determining the proposed uses are compatible with the character of the PUD and the surrounding area, and documented in the findings of fact.
 2. **Perimeter Setbacks:** The setback maintained along the perimeter of the PUD shall

equal or exceed the required setback of the underlying zoning district, provided:

- a. Any portion of a commercial or industrial use shall maintain a perimeter setback of not less than fifty (50) feet from any adjoining or abutting property, which is in a residential zoning district.
 - b. With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped.
3. Minimum Project Parcel Size: The minimum size of a parcel used for a PUD shall be of sufficient size to contain on the site, both physically and aesthetically all elements of the project and limit the effects of the development on the adjacent properties, as confirmed during the Planning Commission review.
4. Other Dimensional Regulations: To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, permit modification of the dimensional requirements, as required by the underlying zoning district, including but not limited to minimum lot size, density, height and setbacks within the PUD project, upon a finding that the proposed dimensional regulations will not be detrimental to the public health, safety, or welfare of future occupants of the PUD, the surrounding neighborhood, or the Village as a whole.

Any changes permitted by the Planning Commission shall be limited as follows:

- a. Residential density shall not be increased by more than thirty (30) percent of the underlying zoning district standard.
- b. Setbacks shall not be reduced by more than fifty (50) percent of the underlying zoning district requirements. Perimeter setbacks as required by the PUD regulations may not be reduced.
- c. Required parking shall not be reduced by more than sixty (60) percent of the parking normally required of the proposed use. In no case shall a single-family home; mobile or modular home, or other such detached single-family dwelling have less than two (2) on-site (off-street) parking spaces. In reducing the required parking, the Planning Commission may require the reservation of a portion of the PUD site for future parking.
- d. Height of any building and structure within a PUD project shall not exceed the height limit of the underlying zoning district, unless specifically authorized by the Planning Commission upon a finding that the proposed increase will not be detrimental to the public health, safety, or welfare of the PUD occupants, the area surrounding the PUD project site, and the Village as a whole; and the building height increase will not violate the Antrim County Airport Zoning Ordinance. This increase, however, shall not exceed fifty (50) percent of the underlying zoning district height limit. In authorizing an increase in height, the Planning Commission may require increased building setbacks and/or other conditions determined necessary to secure the public health, safety, or welfare and to ensure compatibility of the project with the surrounding area. In no case shall an increase in height be permitted if the increase will result in conditions beyond the service capability of the Village pursuant to emergency fire suppression and other emergency services
- e. Prior to approving a change in dimensional regulations, the planning commission may require the applicant to demonstrate through bona fide

documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and infrastructure impact studies, that the reduction will not result in significant impacts to the PUD project and PUD occupants, the surrounding area, and the Village as a whole.

5. Open Space: A PUD project shall have open space of no less than twenty-five (25%) percent of the entire project area. This required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD. Dedicated open space does not include parking lots, streets, and public rights-of-way, but may include flood plain areas and wetlands up to a maximum of twenty-five (25%) percent of the required open space and landscape area devoted to perimeter setbacks.
 6. Unified Control: The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
 7. Utilities:
 - a. The parcel on which the proposed PUD will be located shall be served by public water and sanitary facilities.
 - b. The PUD shall provide for underground installation of all utilities.
- C. **PUD Application Requirements**: An applicant seeking approval of a PUD shall submit a complete application in accordance with the procedures as specified in Article 7-Special Use Permits and accompanied by 1) a concept plan to show how the project elements can fit on the site and 2) a narrative statement describing:
1. The objectives of the proposed PUD and how they related to the intent of the Zoning Ordinance.
 2. The relationship of the proposed PUD to the Village of Bellaire Master Plan.
 3. Phases of development, if any, and the approximate time frame for the start and completion of each phase.
 4. Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.
 5. Anticipated dates for the start and completion of the PUD construction.
 6. The location, type and size of areas to be dedicated for common open space.
- D. **Supplemental PUD Approval Standards**: The Planning Commission shall approve or approve with conditions an application for a PUD upon finding the proposed PUD complies with the Standards set forth in **Section 7.03** Standards for Granting a Special Use Permit and the following additional standards:
1. The PUD shall be designed to preserve public vistas and existing important natural, historical and architectural features of significance within the development.
 2. The PUD shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those

of abutting property and any linear trail or park systems intersecting or abutting such development.

3. The PUD shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely interfere with the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles to and within the development and adequate space for turning around at street ends shall be provided.
4. The PUD shall comply with the stormwater retention and management requirements of **Section 3.16**.
5. The PUD shall be designed such that the phases of the development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
6. The PUD shall meet the standards of other governmental agencies, where applicable.

SECTION 8.12 PUBLIC BUILDINGS, INSTITUTIONS AND PLACES OF WORSHIP

- A. Public buildings (except public works garages and storage yards), places of worship, public schools, private schools and their local supporting service uses, shall be permitted provided the arrangement of property uses shall minimize the impact on scenic views, and if feasible, the site design shall mitigate negative impacts related to building size, noise, lighting and traffic.
- B. Any uses of church structures or properties for such other purposes as recreation, day care centers, group housing, and the like, shall be separately considered as part of the conditions to granting or denying a special permit in residential districts.

SECTION 8.13 RESOURCE MINING AND EXTRACTION OPERATIONS

- A. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to strip greater than 2,000 cubic yards of topsoil, sand, clay and gravel or similar material, or to use lands for filling within the Village without first submitting a site plan and procuring approval from the Planning Commission.
- B. A separate site plan approval will not be required for excavation or fill activities associated with building construction pursuant to a duly issued zoning permit. However, where sand, gravel, topsoil, or other substances are removed from the site where found and taken to another site, site plan approval is needed for the receiving site.
- C. A separate site plan shall be required for each separate excavation and fill site, except as otherwise specified in this Ordinance. In addition to the site plan requirements listed in **Section 6.03**, a site plan prepared under this section shall also include:
 1. Names and addresses of parties interested in said premises setting forth their legal interest in said premises.
 2. Full legal description of the premises where operations are proposed.
 3. Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will

- cover.
4. Detailed statement as to exactly what type of material is proposed to be extracted or deposited.
 5. Proposed method of filling excavation and/or other means to be used to allow for the reclamation of lands to a usable purpose.
 6. Detailed documentation that no very serious consequences would result from the extraction of natural resources from the property based consideration of the following factors, as applicable:
 - a. The relationship of extraction and associated activities with existing land uses.
 - b. The impact on existing land uses in the vicinity of the property .
 - c. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
 - d. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
 - e. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
 - f. The overall public interest in the extraction of the specific natural resources on the property.
 7. Such other information as may be reasonably required by the Planning Commission to base an opinion as to whether the site plan should be approved or not.
- D. The sand and gravel operations application shall provide information to confirm compliance with the following standards:
1. Hours of Operation: The operation of mechanical equipment of any kind shall be limited by the day and/or the hour. Site Specific Hours of Operation for mining, processing and reclamation activities must be approved, but shall not exceed the following schedule Monday through Saturday, excluding legal holidays, during the following times:
 - a. Mining or extracting operations, and processing and stockpiling of aggregates shall occur only between the hours of 7:00 a.m. and 6:00 p.m.
 - b. Loading and hauling operations shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
 - c. Equipment maintenance and repair shall occur only between the hours of 7:00 a.m. and 9:00 p.m.
 2. Screening: Fences, berms, walls, and visual screening devices may be required, if necessary, in the opinion of the Planning Commission, to protect adjoining properties and/or ensure the health, safety and welfare of persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.
 3. Dust, Debris: All processing equipment and activities and all storage areas shall be treated, covered, muffled, or otherwise controlled to prevent excessive dust, debris, or other impacts beyond the property line. Any trucks hauling material to or from the site shall be enclosed or covered to prevent materials from blowing or

falling out of the trucks.

4. **Groundwater Impact:** Extractive operations shall be managed and designed so as to not cause any negative impact on groundwater and potable water supply, whether as a result of contamination or reduction in the rate and volume of flow.
 5. **Street Impact:**
 - a. Extractive operations shall be managed and designed so as to have minimum negative impact on existing streets. The truck route to be utilized in the accessing of the extraction site shall be designated and subject to approval by the Planning Commission.
 - b. Dust caused by truck traffic of the entrance drive to be treated as needed with dust suppression material.
 6. **No Very Serious Consequences:** Extractive operations shall be designed and managed so that no very serious consequences shall result from the mining operation, based on the standards set forth in *Silva V Ada Township, 416 Mich 153 (1982)*.
- E. Reclamation Plan. A reclamation plan, which shall include all information required by any State or federal agency having jurisdiction and which includes the following:
1. Description and location of each phase, number of acres included in each phase, estimated starting and termination dates for each phase and the amount of time that will be required to complete the entire reclamation operation. All areas shall be reclaimed progressively as the mining in that area is completed. Reclaimed areas shall be reasonably natural and inconspicuous, lacking in hazards and in a condition that the area can be reused for an allowable use in the district in which the site is located. All slopes and banks shall be graded to angles that do not exceed those found in the natural topography of the surrounding areas, and the banks shall be treated to prevent erosion.
 2. Provisions for grading, drainage (especially agricultural field tiles) revegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.
 3. Description of proposed future land uses.
 4. Description of plans for disposition of all structures, streets, drains or related facilities after cessation of the extractive operation.
 5. A plan for disposal or treatment of all harmful or toxic materials found in any formations penetrated by the extractive operation or produced during the processing of minerals on the site and of chemicals or materials used during the extractive, processing or reclamation operations.
 6. All information required as part of a reclamation plan that is required by state or federal law.

SECTION 8.14 SEXUALLY ORIENTED BUSINESSES

- A. **Purpose and Intent:** The purpose and intent of the Sections of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the Village, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational

characteristics that cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of village residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities that are prohibited by Village ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Village intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Village further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

B. Standards:

1. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand feet (1000') of any principal or accessory structure of another sexually oriented business.
2. No sexually oriented business shall be established on a parcel that is within two hundred feet (200') of any parcel zoned R-1, R-2, and R-3.
3. No sexually oriented business shall be established on a parcel within two hundred feet (200') of any residence, park, school, child care organization, or place of worship. The distance between a proposed sexually oriented business and any residence, park, school, child care organization, place of worship, or other sexually oriented business is to be located to the nearest property line of the residence, school, child care organization, place of worship, or other sexually oriented business.
4. The proposed use shall conform to all specific area, setback, frontage, height, bulk, density or other dimensional requirements of the zoning district in which it is located.
5. The proposed use must meet all applicable written and duly promulgated standards of the Village of Bellaire and of other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
6. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent streets.
7. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance relating to the regulation of signage, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
8. Entrances to the proposed sexually oriented business must be posted on both the

exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1) “Persons under the age of 18 are not permitted to enter the premises”, and 2) “No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.”

9. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining streets or a neighboring property.
10. Hours of operation shall be limited to 8:00 AM to 12:00 AM, Monday through Saturday.
11. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
12. Any booth, room or cubicle available in any sexually oriented business, except an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
 - a. Is handicap accessible to the extent required by the Americans With Disabilities Act;
 - b. Is unobstructed by any door, lock or other entrance and exit control device;
 - c. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - d. Is illuminated by a light bulb of wattage of no less than 25 watts;
 - e. Has no holes or openings in any side or rear walls.

C. Application and Appeal Processes:

1. The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business. If the Planning Commission determines that the application is complete, it shall within sixty (60) days of said determination make and adopt specific findings with respect to whether the proposed sexually oriented business is in compliance with the standards designated in **Section 7.03** and **Section 8.14.B(1-12)**. If the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business and either approved or denied the issuance of a special approval for same within sixty (60) days of its determination that a completed application has been filed, then the special approval shall be deemed to have been approved.
2. Prompt judicial review of adverse determination: If the Planning Commission denies a special approval application for a sexually oriented business pursuant to the above paragraphs, then the applicant shall be entitled to prompt judicial review by submitting a written request to the Zoning Administrator. The Village shall within three (3) business days of receipt of such written notice do the following:
 - a. File a petition in the Circuit Court for the County of Antrim seeking a judicial determination with respect to the validity of such denial and, in conjunction therewith, apply for a preliminary and permanent injunction

restraining the applicant from operating the sexually oriented business in violation of the Village Zoning Ordinance;

- b. Request that the application for issuance of a preliminary injunction be set for a show-cause hearing within five (5) business days or as soon thereafter as is possible after the filing of such petition. In the event the applicant appears at or before the time of such show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the Village shall be required to waive its application for preliminary injunction and shall join in such request.
- c. In the event that the applicant does not waive notice and/or does not request an early hearing on the Village's application for permanent injunction, it shall nevertheless be the duty of the Village to seek the earliest possible hearing date under Michigan law and the Michigan Court Rules.
- d. The filing of written notice of intent to contest the Planning Commission's denial of a special approval shall not in any way affect the validity of such denial, but such denial shall be deemed invalid and the special approval application automatically approved if, within fifteen (15) business days of the filing of Village's petition, a show-cause hearing has not been scheduled.

SECTION 8.15 STORAGE FACILITIES

Storage uses as allowed in Commercial (C) and Manufacturing (M) zoning districts, including mini-storage, shall meet the following regulations:

- A. All proposed storage buildings nearest to the primary access street shall be located on the site approximately perpendicular to the street; landscape screening may be required by the Planning Commission per subparagraph 3 of this section.
- B. Proposed storage buildings shall be positioned to the rear of other approved non-storage or non-warehousing buildings, e.g., retail or office uses, or, the storage buildings shall be set back at least one hundred (100) feet from public street right-of-way lines.
- C. Effective year-round landscape screening is required to shield storage buildings from bordering public streets upon installation of proposed plant materials.
- D. Nothing in this section shall prohibit or inhibit storage space as a necessary accessory use to any principal commercial use of the property, and these standards do not apply to internal streets within a planned industrial or commercial park.
- E. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, shall be within an enclosed building or behind an obscuring wall or fence on those sides abutting any Residential District and on any yard abutting a public thoroughfare.

SECTION 8.16 TELECOMMUNICATION TOWERS & ALTERNATIVE STRUCTURES

- A. **Purpose and Intent:** The purpose and intent of this Section pertaining to wireless

telecommunications towers, structures and antennas is to establish general guidelines for the location of wireless telecommunication towers, alternative tower structures and antennas. The Village recognizes that it is in the public interest to permit the location of wireless telecommunication towers, alternative tower structures and antennas within the Village. The Village also recognizes the need to protect the scenic beauty of the Village of Bellaire from unnecessary and unreasonable visual interference, and that wireless telecommunication towers, alternative tower structures and antennas may have negative aesthetic impacts upon adjoining and neighboring uses. As such, this ordinance seeks to:

1. Protect residential areas from potential adverse impact of towers and antennas;
2. Encourage the location of towers in nonresidential areas;
3. Minimize the total number of towers throughout the community;
4. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
5. Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
6. Enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
7. Consider the public health and safety of telecommunication towers and alternative tower structures; and avoid potential damage to adjacent property from tower failure.

B. Application Requirements:

1. The following information shall be provided in support of an application to construct a wireless telecommunication tower:
 - a. Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunication tower is designed to collapse.
 - b. A map depicting the existing and known proposed location of wireless telecommunication facilities, including wireless telecommunication antenna attached to alternative tower structures, within 2.5 miles surrounding the Village of Bellaire as well as within the proposed service area radius.
 - c. The name, address, and telephone number of the person to contact regarding site maintenance or other notification purposes. This information shall be periodically updated by the tower owner.
 - d. A statement which indicates the applicant's intent to allow the co-location of other antenna, provided that the cost of modifying the existing tower is borne by the co-locating entity and reasonable compensation is paid by the co-locating entity.
2. The Planning Commission shall within 14 days of receiving the application determine whether the application is administratively complete and the required fee has been paid. If the Planning Commission fails to make this determination within the 14-day period, the application shall be deemed administratively complete.
3. If, before the expiration of the 14-day period, the Planning Commission notifies the Applicant that the application is not administratively complete, specifying the

information necessary to make the application complete, or notifies the Applicant that the required fee has not been paid, specifying the amount due, the 14-day period is tolled until the Applicant rectifies the specified deficiencies.

4. The Planning Commission may delegate its review of the application to determine completeness to the Zoning Administrator.
- C. **Decision:** The Planning Commission shall approve or deny the application not more than 90 days after the application is administratively complete. If the Planning Commission fails to act within the 90-day period, the application shall be deemed approved and the Planning Commission shall be considered to have made any determination required for approval.
- D. **Evidentiary Requirements:** The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternate tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
1. No existing towers or alternative tower structures are located within the geographic area that meets applicant's engineering requirements.
 2. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
 3. Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternative tower structures, or the antenna on the existing towers or alternative tower structures would cause interference with the applicant's proposed antenna.
 5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 7. The applicant demonstrates that an alternative technology that does not require the use of towers or alternative tower structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system is unsuitable.
- E. **Setbacks:** The following setback requirements shall apply to all towers for which a special use permit is required.
1. 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.
 2. Guys and accessory buildings or structures must satisfy the minimum zoning district setback requirements.
- F. **Security fencing:** Towers and attendant accessory structures shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an

appropriate anti-climbing device.

- G. **Landscaping:** The following requirements shall govern the landscaping surrounding towers for which a special use permit is required.
1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.
 2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- H. **State or Federal Requirements:** The applicant must demonstrate that any proposed tower meets or exceeds current standards and regulations of the FAA, the FCC, and any other agency of 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 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 bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- I. **Aesthetics:** Towers and antennas shall meet the following requirements:
1. 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.
 2. 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.
 3. If an antenna is installed on a structure other than a tower, the antenna and 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.
 4. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power.
- J. **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. No strobe lights shall be allowed.
- K. **Compliance with Codes:** Antenna and metal towers shall be grounded for protection

against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.

- L. **Interference with Residential Reception:** Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
- M. **Signs:** No signs other than signs required pursuant to federal, state, or local law or ordinance shall be allowed on an antenna or tower.
- N. **Spacing: Towers.** Towers shall be located no closer than one (1) mile from an existing telecommunication tower or alternative tower structure, as measured in a straight line between the base of the existing tower and the proposed base of the proposed tower.
- O. **Spacing: Residences.** A tower shall not be located within two hundred feet (200') or three hundred percent (300%) of the height of the tower, whichever is greater, of a single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the lot line of the single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons.
- P. **Removal of Abandoned Antennas and Towers:** 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 Village notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.

SECTION 8.17 TRANSPORTATION FREIGHT/ TRUCK TERMINALS

- A. Minimum lot size shall be five (5) acres.
- B. The minimum setback for use and structures other than employee and customer parking shall be fifty (50) feet from the street right-of-way and thirty-five (35) feet from side or rear property lines.
- C. The lot location shall be such that at least one (1) property line abuts a paved primary street. The access driveways for all vehicles shall be directly from said thoroughfare.
- D. Access driveways shall be located at least fifty (50) feet from the right-of-way of nearest intersection of any street or any other driveway.
- E. Repair of vehicles shall be done within a totally enclosed building.
- F. The temporary storage of vehicle parts, inoperable vehicles and/or storage shall be within an enclosed building or screened from view by passersby or neighboring properties.
- G. Truck parking and staging areas shall be fenced and screened from the view of any

abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.

- H. A landscape buffer may be required along property lines.
- I. Lighting for parking areas or outdoor activity areas shall comply with the Outdoor Lighting regulations of **Section 3.10**.

SECTION 8.18 MOBILE FOOD VENDING

Mobile food vending use shall be allowable in the Village Commons, Central Business District, Manufacturing and Commercial zoning districts, per **Section 4.02**. Mobile food vending shall be permitted outside any street right-of way and only on private property (written consent of the property owner is required); except if specifically authorized by the Village of Bellaire as part of an approved special event.

A temporary land use permit shall be required for the location and use of a mobile food vending unit. Such a temporary land use permit shall be issued for a period not to exceed 90 days.

Mobile food vending requirements:

- A. Provide appropriate waste receptacles at the site for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of the mobile food vending units shall be collected and properly disposed of by the operator. Spills of food or food by-products shall be cleaned up and no dumping of gray water on the streets is allowed.
- B. No mobile food vendors shall make or cause to be made any unreasonable or excessive noise.
- C. Signage in compliance with **Section 3.11**, is only allowed on the mobile food vending unit. No separate freestanding signs are permitted. When extended, awnings for mobile food vending units shall have a minimum clearance of seven (7) feet between the ground and the lowest point of the awning or support structure.
- D. No flashing, blinking or strobe lights are allowed on mobile food vending unit or related signage when the unit is parked and engaged in serving customers. All lighting shall comply with **Section 3.10**.
- E. Mobile food vending units shall be located on the site to comply with the required zoning district setback requirements.
- F. No dining area shall be allowed within ten (10) feet of the mobile food vending unit, including but not limited to tables, chairs, booths, stools, benches and stand up counters.
- G. Mobile food vending units may use electrical power from the property being occupied or an adjacent property, but only when the property owner has provided written consent.
- H. Mobile food vending hours of operation shall be confined to: 8am-9pm, when located adjacent to a residential district or use; and all other locations shall confine operations to the hours of 8am-11pm.

SECTION 8.19 COMMERCIAL WIND TURBINE GENERATORS

- A. The Village of Bellaire is within a three (3) mile radius of the Antrim County Airport, consequently height limits are imposed by the Antrim County Airport Zoning Ordinance, thus most current commercial wind turbine generators (WTG) would violate the allowed height.
- B. Any commercial WTG that does not exceed the height limits allowed is subject to the special use permit review process and as part of the application shall be provide a letter from Antrim County specifying that the proposed WTG meets the requirements of the Antrim County Airport Zoning Ordinance.

SECTION 9.01 PURPOSE

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a Village Zoning Board of Appeals.

SECTION 9.02 MEMBERSHIP

- A. The Bellaire Village Council shall appoint a Zoning Board of Appeals (ZBA) consisting of five (5) members. Each member of the Zoning Board of Appeals shall serve for a term of three (3) years, except that for the first appointments two (2) members shall serve for a term of two (2) years and one (1) member shall serve for a term of one (1) year. Members of the zoning Board of Appeals shall be residents of the Village.
- B. The Bellaire Village Council shall appoint two (2) alternate members of the Zoning Board of Appeals for three (3) year terms, except that for the first appointments one (1) alternate member shall serve for a two (2) year term. The alternate members shall be called on a rotating basis, by the chairperson of the Zoning Board of Appeals, to sit as regular members in the absence of a regular member or when a regular member has abstained from participating in a case for reasons of conflict of interest. An alternate member called to sit, as a regular member shall serve in the case until a final decision has been made and shall have the same voting rights as regular members of the Zoning Board of Appeals.
- C. The Bellaire Village Council may remove a regular or alternate member of the Zoning Board of Appeals for neglect of duty or misconduct in office following written charges and a public hearing before the Village Council.

SECTION 9.03 RULES OF PROCEDURE

- A. The Board shall adopt rules and regulations to ensure proper conduct of its meetings. Copies of such regulations shall be made available to the public at the office of the Village Clerk.
- B. Meetings of the Board shall be open to the public and shall be held at the call of the Chairman and at such times as the Board may determine necessary. The Board shall not conduct business unless a majority of the regular members of the ZBA are present.
- C. The Board shall act by resolution or motion. The concurring vote of a majority of the members of the entire Board shall be necessary to reverse an order, requirement, decision, or determination of the Zoning Administrator or the Planning & Zoning Commission to decide in favor of an applicant on any matter upon which the Board is required to pass under this Ordinance, or to grant a dimensional variance under the Ordinance; provided, however, that concurring vote of 2/3 of the members of the Board shall be necessary to grant a variance from uses of land permitted in this Ordinance.
- D. Records - Minutes shall be recorded of all proceedings that shall contain evidence and data relevant to every case considered together with the votes of the members and the final disposition of each case. The grounds of every determination shall be stated. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall

become a public record and as such be filed in the office of the Village Clerk. A copy of the decision shall be sent promptly to the applicant and the Zoning Administrator.

- E. Secretary and Counsel – Except when the Zoning Board of Appeals is deciding an appeal from a decision of the Zoning Administrator, the Zoning Administrator shall be responsible for acting as secretary of the Zoning Board of Appeals and providing administrative services for the Zoning Board of Appeals. In cases involving an appeal from a decision of the Zoning Administrator, the Village Clerk or Deputy Clerk shall act as secretary and provide administrative services for the Zoning Board of Appeals. The Village attorney may be requested to attend any meeting of the Zoning Board of Appeals.

SECTION 9.04 DUTIES AND POWERS OF THE ZONING BOARD OF APPEALS

- A. **Review** - Shall hear and decide appeals from any review, any order, requirement, interpretation, decision or determination made by the Zoning Administrator in the administration of this Ordinance. Provided, however, the Zoning Board of Appeals shall not have jurisdiction to hear appeals made by the Zoning Administrator concerning administrative decisions whether to take enforcement action for alleged violations of this Ordinance.
- B. **Interpretation** - Shall have the power to:
1. Hear and decide upon appeals for the interpretation of the provisions of this Ordinance;
 2. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision on such subject made by the Zoning Administrator.
- C. **Variances** - The Zoning Board of Appeals shall have the power to authorize specific variances from the requirements of this Ordinance if it finds based upon competent, material, and substantial evidence following a public hearing that all of the applicable standards provided in this section have been met.
1. **Dimensional Variances:** To obtain a variance from the dimensional requirements of this Ordinance (area, setback, frontage, height, bulk, density or other dimensional requirements) the applicant must demonstrate that a practical difficulty exists by showing all of the following:
 - a. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and not due to applicant's personal or economic hardship.
 - b. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
 - c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome
 - d. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to

- the property owner and be more consistent with justice to other property owners.
- e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
2. Use Variances: The ZBA may grant use variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in unnecessary hardship. To establish unnecessary hardship, the applicant must establish all of the following:
- a. The building, structure or land cannot be reasonably used for any of the uses permitted by right or by special approval in the zoning district in which it is located.
 - b. The need for the requested variance is due to unique circumstances peculiar to the applicant's property and not due to general neighborhood conditions.
 - c. The proposed use of applicant's property will not alter the essential character of the neighborhood.
 - d. The need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
- D. In addition to the foregoing conditions, the following rules shall be applied in the granting of variances:
1. In granting a variance the Zoning Board of Appeals may specify, in writing, to the applicant such conditions in connection with the granting that will, in its judgment, secure substantially the objectives of the regulations or provisions to which such variance applies, per **Section 10.06**. The breach of any such condition shall automatically invalidate the variance granted.
 2. No application for a 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 grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid, per **Section 10.07**.
 3. After a variance has been granted, the applicant is still required to obtain Planning Commission approval, if required for the given use, and a zoning permit for the project from the Zoning Administrator.
 4. An approved variance shall expire unless substantial construction of the development or structure authorized by the variance has begun within one (1) year from the date of approval of the variance. Thirty (30) days prior to expiration of an approved variance, an applicant may make application to the Zoning Board of Appeals for a one (1) year extension of the variance at no fee. The Zoning Board of Appeals shall grant the requested extension for an additional one (1) year, if it finds good cause for the extension and that the zoning regulations governing the variance have not changed since the approval.

SECTION 9.05 PROCEDURES

- A. An officer or board of the Village or any person aggrieved may file appeals to the Zoning Board of Appeals.
- B. Finance Guarantee – Any party or entity bringing an appeal to the Zoning Board of Appeals may be required to provide money in an escrow account to cover the costs to the Village as designated in **Section 10.04.B** of the Village of Bellaire Zoning Ordinance.
- C. Time Limit - Any appeal from a ruling of the Zoning Administrator shall be made within thirty (30) days after the decision is made. The person making the appeal must file with the Zoning Administrator a signed notice of appeal specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all the papers concerning the case being appealed.
- D. Public Notice Requirements – Following receipt of a written request concerning an appeal of an administrative decision, a request for an interpretation of the Zoning Ordinance, or a request for a variance, the Zoning Board of Appeals shall hold a public hearing, after giving the following applicable notice:
 1. A notice of the public hearing shall be prepared, which shall include all of the following applicable information:
 - a. A description of the nature of the appeal, interpretation or variance request.
 - b. If the appeal or interpretation request involves a specific parcel, and in all variance requests, the notice shall describe the property involved. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - c. The time, date, and place the appeal, interpretation or variance request will be considered.
 - d. The address where and the deadline when written comments will be received concerning the appeal, interpretation or variance request.
 2. The notice shall be published in a newspaper of general circulation within the Village not less than 15 days before the scheduled public hearing.
 3. The notice shall be sent by first class mail or personal delivery to the person filing the appeal or requesting the interpretation and, if the appeal or interpretation request involves a specific parcel and in all variance requests, to the owners of the property involved, not less than 15 days before the scheduled public hearing.
 4. If the appeal or interpretation request involves a specific parcel, and in all variance requests, the notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property involved and to the occupants of all structures within 300 feet of the property involved not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Village. If the name of the occupant or tenant is not known, the term “occupant” may be used in making

notification under this subsection.

5. After providing the notice required under this section and without further notice, except as required under the Open Meetings Act, the Zoning Board of Appeals may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.
- E. Decisions - The Zoning Board of Appeals shall return a decision upon each case within a reasonable time after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned. Decisions made by the Zoning Board of Appeals will be forwarded, in writing, to the appealing party and the Zoning Administrator.
- F. Representation - Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

SECTION 9.06 STAY OF PROCEEDINGS

An administrative appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to circuit court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the circuit court. However, this section shall not apply to an administrative decision to take enforcement action for alleged violations of this Ordinance.

SECTION 10.01 ZONING ADMINISTRATION

- A. The provisions of this Ordinance shall be administered and enforced by the Village Zoning Administrator, appointed by the Village Council for such term and subject to such conditions and at such rate of compensation as said Council shall determine as reasonable.
- B. The Zoning Administrator shall have the power to grant Zoning Permits. However it shall be unlawful for the Zoning Administrator to approve any plans or issue any Permits for excavation for construction purposes or construction until such plans have been inspected in detail and found to conform to this Ordinance.
- C. It shall be the duty of the Zoning Administrator, or other official designated by the Village Council, to inspect land, buildings and/or structures to determine violations of or compliance with this Ordinance. The Zoning Administrator, or other official designated by the Village Council, shall exercise this right of inspection by consent of the person having the right to possession of the land, building and/or structure or any part thereof, or by administrative search warrant issued by a court of competent jurisdiction.
- D. The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties of Zoning Administrator.
- E. The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are met by the applicant despite violations of contracts, such as covenants or private agreements that may occur upon the granting of said Permit.
- F. The Bellaire Village Council may also appoint a Deputy Zoning Administrator.

SECTION 10.02 ZONING PERMIT AND APPLICATION

- A. No land, building or structure subject to the provisions of this Ordinance shall hereafter be used, erected, structurally altered (as related to the exterior of the building or structure), reconstructed, used for a different purpose, or moved nor shall any excavation of land for construction purposes be commenced until a zoning permit application has been filed with the Zoning Administrator and a Zoning Permit has been issued by the Zoning Administrator, except as otherwise permitted for in this ordinance. Re-roofing, siding and/or window replacement for existing building do not require a Zoning Permit. No Zoning Permit shall be required for the continuation of any lawful use of any building or structure in existence as of the adoption date of this Ordinance. No Zoning permit shall be required for an accessory building less than 200 sf in size, but the location of the accessory structure shall comply with the applicable district setbacks.
- B. The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. Any application requiring approval from the Planning Commission must be submitted not less than thirty (30) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:
 - 1. A Site Plan, if required, or a Plot Plan with the required information as specified in **Article 6**.

2. Properties under two (2) acres in size may be required to submit a legal property survey, sealed by a professional surveyor (not a mortgage survey). The Zoning Administrator shall have the authority to require such a survey of the affected area in the cases where there may be encroachment on the setbacks by the proposed structures or when the exact locations of lot lines are not known.
 3. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator.
 4. Such other information as may be required to determine compliance with the Ordinance.
- C. A Zoning Permit shall not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits issued by the Antrim County Building Department.
 - D. The location of the property boundaries and all structures shall be staked on the ground for Zoning Administrator approval prior to the issuance of the Zoning Permit.
 - E. Any Zoning Permit under which substantial construction has not started or if no substantial construction has been done in the furtherance of the zoning permit, the zoning permit will expire after twelve (12) months from date of issuance. Prior to the expiration of the Zoning Permit, upon application the applicant shall be granted one one-year extension.
 - F. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
 - G. No Zoning Permit shall be valid until the required fees have been paid. Except for an accessory building or structure less than 200 square feet in size, which does not require a zoning permit pursuant to **Section 10.02.A** of this Ordinance, no separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Village Council.
 - H. Upon issuance of the Zoning permit, a copy of the permit and the application, including any drawings shall be transmitted to the Assessor, the Antrim County Building Department and other agencies as appropriate.
 - I. Any zoning permit required by this Zoning Ordinance shall be displayed face out, within twenty-four hours of its issuance by placing the same in a conspicuous place on the premises facing the nearest street and shall be continuously so displayed until all work is completed.

SECTION 10.03 INSPECTIONS

No zoning permit will be issued by the Zoning Administrator without first conducting a site inspection. It is the responsibility of the applicant to have all applicable property lines and building sites marked on the ground and to notify the Zoning Administrator of such.

SECTION 10.04 FEES

- A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the village, the Village Council may from time to time adopt by resolution a fee schedule establishing basic zoning fees, such as those fees related to the following:
1. Zoning permits
 2. Special land use permits
 3. Ordinance interpretations by the Zoning Board of Appeals: appeals of administrative interpretation or request for interpretation. Appeals and requests for interpretation initiated by the Village Council, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 4. Classification of unlisted property uses.
 5. Requests to change a non-conforming use to another non-conforming use.
 6. Requests for variances from the Zoning Board of Appeals.
 7. Requests for rezoning of property by individual property owners or amendments to the zoning ordinance text. Rezoning of property or text amendments initiated by the Village Council, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 8. Site plan reviews.
 9. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

- B. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary or advisable, then the applicant shall deposit with the Village Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be

equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance, prior to the scheduled hearing date, shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Village in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

SECTION 10.05 PERFORMANCE GUARANTEE

In connection with the construction of improvements through site plan approval or special land use approval, the Planning Commission may require the applicant to furnish the Village with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation streets, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission, which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Village Clerk at or before the time the village issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Village Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third of the cash deposit after completion of one-third of the public and site improvements;
- B. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the village as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

SECTION 10.06 CONDITIONS

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under their jurisdiction. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power, and purposes, which are affected, by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

SECTION 10.07 REHEARING PROCESS

- A. Final Decisions: Except as provided in this section, a decision of the Planning Commission or Zoning Board of Appeals shall be final. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
 1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
 2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
 3. The Village attorney by written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. Rehearing Procedure: A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.
 1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
 2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been

prejudiced by any delay.

3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicants' last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

SECTION 10.08 VIOLATIONS AND PENALTIES

- A. Nuisance per se: Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
- B. Penalties
 1. Any person, partnership, limited liability company, corporation, association or other entity who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every day that such violation continues may constitute a separate and distinct offense under the provisions of this Ordinance.
 2. The Officers of the Bellaire Police Department and other officials authorized by the Village Council are hereby designated as the authorized Village officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
 3. In addition to or in lieu of enforcing this Ordinance, as a municipal civil infraction, the village may initiate proceedings in the any court of competent jurisdiction to abate, eliminate, or enjoin the nuisance per se or any other violation of this Ordinance.
- D. Stop Work Order:
 1. If construction or land uses are being undertaken contrary to a Zoning Permit, the Michigan Zoning Enabling Act, or this Ordinance, the Zoning Administrator or Deputy Zoning Administrator or any other official authorized by the Village Council is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the Ordinance.
 2. A person shall not continue, or cause or allow to be continued, construction or

uses in violation of a stop work order, except with permission of the Zoning Administrator to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the Zoning Administrator may apply to the circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance.

SECTION 10.09 CONFLICTING REGULATIONS

In the interpretation of this Ordinance, this Ordinance shall control unless there exists a conflict with any other Village ordinances, in which case the more stringent regulations will apply.

SECTION 11.01 AMENDMENT OF THIS ORDINANCE

- A. The Village Council is authorized and empowered to cause this Zoning Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in the Michigan Zoning Enabling Act, Act 110 of Public Acts 2006, as amended.
1. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Village of Bellaire Zoning Map may be amended, supplemented or changed by action of the Village Council following a recommendation from the Village Planning Commission.
 2. Proposals for amendments, supplements or changes may be initiated by the Village Council on its own motion, by the Village Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
 3. The procedure to be followed for initiating and processing an amendment shall be as follows:
 - a. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee as prescribed by the Village Council. No part of such fee shall be returnable to a petitioner if the public hearing is held.
 - b. The Zoning Administrator shall notify, in writing, the Village Clerk and Chair of the Planning Commission at or before the time s/he transmits the amendment request to the Planning Commission.
 - c. The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.
 - d. Before ruling on any proposal the Planning Commission shall conduct at least one (1) public hearing, notice of the time and place of which shall be given by publication in a newspaper of general circulation in the Village, not less than fifteen (15) days before the date of such hearing. Not less than 15 days notice of the time and place of such hearing shall also be given by mail to each public utility company, railroad, and airport manager within the zone affected who have registered to receive such notices. The notices shall include the places and times at which the tentative text and any map of the Zoning Ordinance may be examined and shall be verified by an affidavit of mailing or personal service.

If an individual or several properties (10 or fewer adjacent properties) are proposed for re-zoning, owners of the property (or properties) shall be given notice of the proposed re-zoning not less than 15 days prior to the hearing. Notice shall also be sent to all persons who own property within 300 feet of the subject property (or properties) and to occupants of all structures within 300 feet of the property (or properties).

If eleven or greater properties are proposed for re-zoning, a general notice of the public hearing on the matter shall be provided. Notice of the time and place of the public hearing, shall be given by publication in a newspaper of general circulation in the Village, not less than fifteen (15) days before the date of such hearing.

- e. The Planning Commission shall review and apply the following standards and factors in the consideration of any re-zoning request.
- 1) Is the proposed rezoning consistent with the Village of Bellaire Master Plan?
 - 2) Is the proposed rezoning reasonably consistent with surrounding uses?
 - 3) Will there be an adverse physical impact on surrounding properties?
 - 4) Will there be an adverse effect on property values in the adjacent area?
 - 5) Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
 - 6) Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
 - 7) Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
 - 8) Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
 - 9) Is the rezoning in conflict with the planned use for the property as reflected in the master plan?
 - 10) Is the site served by adequate public facilities or is the petitioner able to provide them?
 - 11) Are there sites nearby already properly zoned that can be used for the intended purposes?
 - 12) The community should evaluate whether other local remedies are available.
- f. The Planning Commission shall submit a final report/recommendation to the Village Council along with a summary of the comments received at the public hearing.
- g. The Village Council may hold additional public hearings if it considers it necessary or otherwise required. Notice of the hearing to be held by the Village Council shall be given in the same manner as required under **Section 11.01A.3.d**, above. The Village Council shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the Village Clerk. The Village Council may adopt any proposed amendment, or refer back to the

Planning Commission for a further report as prescribed by Section 401 of Public Act No 110 of 2006, as amended.

- h. Once adopted by the Village Council, amendments to this Ordinance shall be filed with the Village Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Village within fifteen (15) days after adoption.
- i. No application for a rezoning which has been denied by the Village 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 Village Planning Commission to be valid.

SECTION 11.02 ENACTMENT AND EFFECTIVE DATE

- A. This Ordinance was adopted on June 1, 2016 by the Village of Bellaire Council and will be effective June 17, 2016. The foregoing Zoning Ordinance and Zoning Map were presented at official public hearings before the Planning Commission on May 3, 2016 and May 24, 2016.
- B. Amendments or revision to this Ordinance or Map of Zoning Districts shall become effective on the eighth day after publication unless a later date is specified.