



Village of Elk Rapids Zoning Code



VILLAGE OF ELK RAPIDS ZONING CODE

**VILLAGE OF ELK RAPIDS, MICHIGAN
ZONING CODE**

ADOPTING ORDINANCE NO. 458, PASSED - MARCH 2, 2015

VILLAGE OF ELK RAPIDS ZONING CODE

VILLAGE OF ELK RAPIDS

**RESOLUTION 15-16
ADOPTING ORDINANCE NO. 458**

AN ORDINANCE FOR THE EXERCISE OF MUNICIPAL ZONING OF THE VILLAGE OF ELK RAPIDS AND FOR THE HEALTH, SAFETY AND WELFARE OF THE PERSONS AND PROPERTY IN THE VILLAGE OF ELK RAPIDS.

THE VILLAGE OF ELK RAPIDS ORDAINS TO ENACT THE VILLAGE OF ELK RAPIDS ZONING CODE AS FOLLOWS:

SECTION 1: The Village of Elk Rapids Zoning Code as herein revised, amended, restated, codified, and compiled, are adopted as and shall constitute the Village of Elk Rapids Zoning Code.

SECTION 2: Said Code as adopted in Section 1 shall consist of the following titles, to-wit:

TITLE XV: VILLAGE OF ELK RAPIDS ZONING CODE

- CHAPTER 100. GENERAL PROVISIONS
- CHAPTER 200. DEFINITIONS
- CHAPTER 300. ZONING DISTRICTS
- CHAPTER 400. LAND USE STANDARDS
- CHAPTER 500. SITE DEVELOPMENT STANDARDS
- CHAPTER 600. PERMITS AND APPROVAL REQUIREMENTS
- CHAPTER 700. ADMINISTRATION AND ENFORCEMENT
- APPENDIX A. INDEX

SECTION 3: All prior ordinances pertaining to the subjects treated in said Code shall be deemed repealed from and after the effective date of said Code, except as they are included and re-ordained in whole or in part in said Code; provided such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of said Code, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plats or dedication of land to public use, naming or vacating or setting the boundaries of streets alleys or other public places, nor to any other ordinance of a temporary or special nature or pertaining to subjects not contained therein.

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SECTION 4: Said Code shall be deemed published as of the date of its adoption and approval by the Village Council and the Clerk of the Village of Elk Rapids is hereby authorized and ordered to file a copy of said Code in the office of the Village Clerk.

SECTION 5: Said Code shall be in full force and effect thirty (30) days from the date of its publication and filing thereof in the office of the Village Clerk, and said Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded and approved and that any public hearings and notices thereof as required by law have been given.

YAYS: 6

NAYS: 0

ABSENT: 1

I, MICHAEL SPENCE, ASST. VILLAGE MANAGER, DO HEREBY CERTIFY THAT THE ABOVE RESOLUTION 15-16 WAS DULY ADOPTED AT THE REGULAR COUNCIL MEETING HELD ON MARCH 2, 2015.

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CHAPTER 100 - GENERAL PROVISIONS

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CHAPTER 100 – GENERAL PROVISIONS

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§101. SHORT TITLE.

- A. This title shall be known and may be cited as the Village of Elk Rapids Zoning Code, incorporating the Village's Zoning Code and Subdivision Control Act.
(Ord. passed 3-2-15)

§102. AUTHORITY.

- A. This Zoning Code is adopted pursuant to the authority contained in P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act (MZEA), M.C.L. A. §§ 125.3101 et seq.), the Subdivision Control Act, Act 288 of the Public Acts of 1967 as amended, and the Condominium Act, Act 59 of the Public Acts of 1978 as amended.
- B. Whenever any provision of this Zoning Code refers to or cites an act of the State of Michigan and that act is later amended or superseded, this Zoning Code shall be deemed amended to refer to the amended act.
(Ord. passed 3-2-15)

§103. INTENT AND PURPOSE.

- A. This Zoning Code regulates land development and establishes zoning districts in the Village of Elk Rapids, County of Antrim and State of Michigan, which regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare for the purposes provided in the MZEA. The Code specifically:
 - 1. Establishes districts within which the use of land and structures, height, area, size and location are regulated;
 - 2. Establishes regulations for light, ventilation and density of population;
 - 3. Designates the use of certain state licensed residential facilities;
 - 4. Provides for acquisition by purchase, condemnation or otherwise of private property which does not conform to the regulations and restrictions of various zones;
 - 5. Provides for administration, amendments, supplements, changes and conflicts;

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6. Provides for the enforcement of violations of this Code.
 7. Regulates and restricts the use of land and structures to meet the needs of residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land;
 8. Insures that uses of the land shall be situated in appropriate locations and relationships;
 9. Facilitates adequate and efficient provisions for transportation systems, sewage disposal, water, energy, education, recreation, and other public services and facilities.
 10. Designates those zones in the Village for which regulations are imposed for the land use that buildings or structures shall or shall not be erected or altered;
 11. Designates the trades, industries and other land uses that are permitted or excluded or subject to special regulation;
 12. Regulates and limits the height and bulk of buildings erected and regulates the area of yards, courts, and other open spaces;
 13. Limits the allowable density of dwelling units on parcels of land to prevent overcrowding and congestion of population;
 14. Provides for land development regulations and districts which apply only to land areas and land uses which are involved in a special program to achieve specific land management objectives and avert or solve specific land use problems; and
 15. Provides for the establishment of land development regulations and overlay districts in areas designated as being environmentally sensitive.
- B. This Zoning Code is designed to regulate and control the subdivision of land within the Village, including site condominiums, in order to promote the safety, public health, and general welfare of the community. These regulations specifically:
1. Provide for orderly growth and harmonious development of the community, consistent with orderly growth policies, including the Master Plan.
 2. Secure adequate traffic circulation through coordinated street systems with proper relation to major thoroughfares, adjoining subdivisions and public facilities.
 3. Achieve individual property lots of maximum utility and livability.
 4. Insure adequate provisions for water, drainage and sanitary sewer facilities and other health requirements.
 5. Plan for the provision of adequate recreational areas, school sites and other public facilities. (Ord. passed 3-2-15)

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§104. SCOPE REGARDING LAND DIVISION.

- A. The regulations of §608., shall not apply to any lot or lots forming a part of a subdivision or site condominium created and recorded prior to the effective date of this Zoning Code, except for the further dividing of lots or parcels. However, this title does not repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, titles or regulations, or with private restrictions placed upon property by deed, covenant, or other private agreements, or with restrictive covenants running with the land to which the Village is a party. Where this Zoning Code imposes a greater restriction upon land than is imposed or required by such existing provision of any other ordinance of this Village, the provisions of this Zoning Code shall control. These provisions, where required, shall apply to the creation of site condominiums and condominium subdivisions.

(Ord. passed 3-2-15)

§105. EFFECTIVE DATE.

- A. This Zoning Code became effective on April 2, 2015.

(Ord. passed 3-2-15)

§106. REPEALED AND CONTINUATION OF NONCONFORMING USES.

- A. The Village of Elk Rapids Zoning and Unified Development Code, as amended dated November 2, 1989, is hereby repealed with the provision that a situation that did not constitute a lawful, non-conforming situation under the previously adopted Zoning ordinance does not achieve lawful non-conforming status under this Zoning Code merely by the repeal of the prior ordinance.

(Ord. passed 3-2-15)

§107. NO USE OR SALE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH PROVISIONS.

- A. No person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this title.
- B. For purposes of this section, the **USE** or **OCCUPANCY** of a building or land relates to anything and everything that is done to, on, or in that building or land.

(Ord. passed 3-2-15)

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§108. FEES.

- A. Reasonable fees sufficient to cover the costs of application processing shall be charged to Applicants for a Zoning Compliance Permit, Sign Permit, Special Use Permit, Planned Unit Development approval, subdivision plat approval, condominium approval, zoning variances, and other administrative relief. The amount of the fees charged shall be as set forth by resolution of the Village Council filed in the office of the Village Clerk.
- B. Fees established in accordance with §108.A., above, shall be paid upon submission of a signed application or notice of appeal.
- C. Fees may include but are not limited to all costs associated with conducting a public hearing or inspection, including: the newspaper notice; postage; photocopying; staff time; meeting time of the Planning Commission, Village Manager, Village Council, Zoning Board of Appeals; mileage; and any costs associated with reviews by qualified professional community planners and/or engineers or related experts. Fees in excess of those fixed according to division 108.A., above, shall be set and may be collected in escrow with any unexpended balance returned to an Applicant according to the procedure described below:
 1. Upon consideration of any application for approval of a site plan, Special Use Permit, Planned Unit Development Permit, or other land use matter under this Code, either the Planning and Zoning Administrator, Planning Commission or Village Manager may require the deposit of fees to be held in escrow in the name of the applicant to meet the requirements of this Code.
 - a. An escrow fee shall be required for any project with more than ten dwelling units, or more than 10,000 square feet of enclosed space, or which requires any more than 20 parking spaces.
 - b. An escrow fee may be required for any other project which may, in the discretion of the Planning and Zoning Administrator, Planning Commission or Village Manager, create an identifiable and substantial impact on public infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.
 2. The escrow shall be used to pay professional expenses of engineers, community planners, and other professionals whose expertise is used to review a proposed application and/or site plan.

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3. The amount of the escrow fee shall be established based upon an estimate of the cost of services to be rendered by professionals contacted by the Village Manager at the request of the Planning and Zoning Administrator, the Planning Commission or the Village Council.
4. No application for approval for which an escrow fee is requested will continue to be processed until the escrow fee is deposited with the Village Clerk.
5. Professional review shall be initiated upon formation of the escrow account and shall result in a report to the village indicating the extent of conformance or nonconformance with this Code and identifying any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The report shall be part of the considerations and findings of the approval-granting authority.
6. The Applicant shall receive a copy of any professional review hired by the village and a copy of the statement of expenses for the professional services rendered; and,
 - a. Applicant is entitled to a refund of any unused escrow when approval is either granted or denied, or if the application is withdrawn.; and,
 - b. If actual professional review expenses exceed the amount of an escrow, the Applicant shall pay the balance. The balance owed must be paid prior to issuance of the permit or approval that is in response to the application which required the review.

(Ord. passed 3-2-15)

§109. SEVERABILITY.

- A. It is hereby declared to be the intention of the Village Council, that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Code, since the same would have been enacted without the incorporation in this Code of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

(Ord. passed 3-2-15)

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§110. COMPUTATION OF TIME.

- A. Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.
- B. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice is served by mail, three days shall be added to the prescribed period.
(Ord. passed 3-2-15)

§111. RULES FOR CERTAIN WORDING.

- A. The construction of this Code shall be by the following rules, unless such construction is plainly averse to the intent of the Village Council or of the context of the same ordinance:
 - 1. "AND" or "OR". Either conjunction shall include the other as if written "and/or," if the sense requires it.
 - 2. Acts by assistants. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal; such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.
 - 3. Singular and plural; tenses. Words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.
 - 4. General term. A general term following a specific list of terms is not to be limited to the specific list of terms unless expressly so limited.
(Ord. passed 3-2-15)

§112. PROVISIONS NOT AFFECTED BY HEADING.

- A. Chapter and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any section herein.
(Ord. passed 3-2-15)

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§113. AMENDMENT OF PROVISIONS BY VILLAGE COUNCIL.

- A. The regulations and provisions stated in the text of this Zoning Code and the boundaries of zoning districts shown on the Official Zoning Map of the Village may be amended, supplemented, or changed by resolution of the Village Council in accordance with P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3101 et seq.
 - B. Proposals for amendments, supplements, or changes may be initiated by the Village Council on its own motion, by the recommendation of the Planning Commission or by petition submitted by individuals with a vested interest in the properties affected.
 - C. AMENDMENT PROCEDURE.
 - 1. Each petition for an amendment shall be submitted on an application to the Village Clerk, on a standard form, accompanied with payment of required fees at the time of application to cover costs of necessary advertising for public hearing and investigation of the amendment request. No part of such fee shall be returnable to a petitioner.
 - 2. The procedures set forth in §705.F. shall be followed with regard to any amendment.
 - 3. The Planning Commission or Village Council shall consider each proposal for amendment in terms of the Master Plan, its own judgment on particular factors related to the individual proposal, and the likely effect of such proposal upon the surrounding properties. The Planning Commission may recommend additions or modifications to the original amendment proposal. Should the Village Council consider changes, additions, or departures to the proposed amendment, it shall follow the procedures outlined in §705.F.
- (Ord. passed 3-2-15)

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CHAPTER 200 – DEFINITIONS

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CHAPTER 200 - DEFINITIONS

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§ 201. RULES APPLICABLE TO TEXT.

Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

- A. The word **SHALL** is always mandatory and not discretionary. The word **MAY** is permissive.
- B. The word **BUILDING** or **STRUCTURE** includes any part thereof, as those words are defined in §202.
- C. The word **PERSON** includes an individual, firm, partnership, association, trust, company, or corporation, and any other entity recognizable as a “person” under the laws of the State of Michigan.
- D. The word **USED** or **OCCUPIED** as applied to any land or building shall be construed to include the words **INTENDED, ARRANGED, or DESIGNED TO BE USED OR OCCUPIED.**
(Ord. passed 3-2-15)

§ 202. DEFINITIONS.

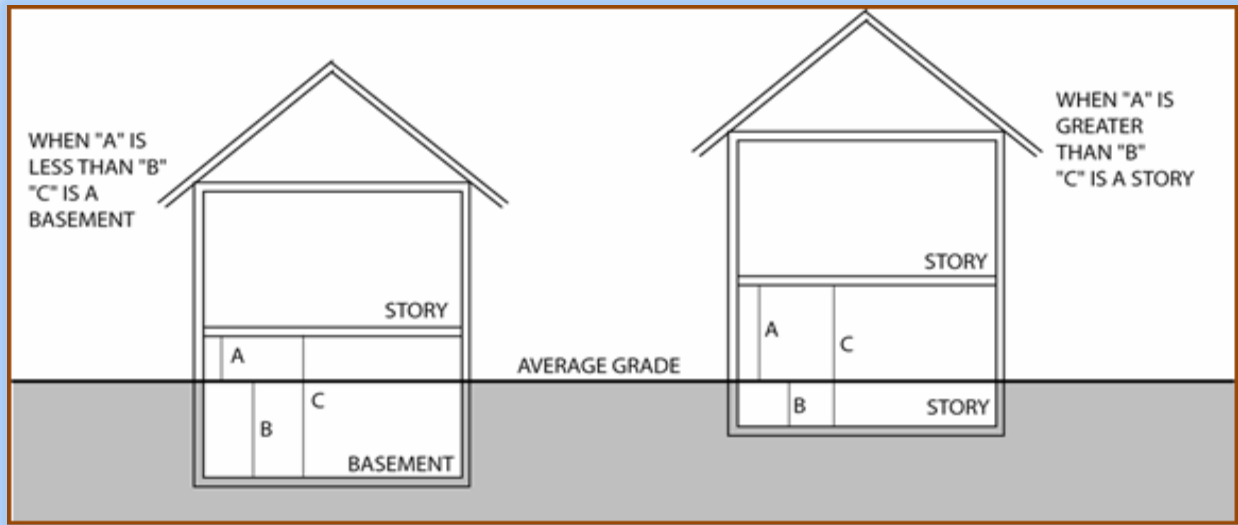
For the purpose of this Zoning Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- **ACCESS, REASONABLE.** An access management term defined as ensuring a motorist can enter or exit a parcel in an uncomplicated manner that will not significantly prevent the use of the parcel. Reasonable access may not always be the most direct access, but may involve use of a shared driveway or service drive.
- **ACCESSORY DWELLING UNIT (ADU).** A second residential dwelling unit that may be contained within an existing single-family home, detached garage, or carriage house, and that meets all of the requirements of Section 431., of this Code.
- **ACCESSORY STRUCTURE.** A subordinate building or structure on the same lot with a principal or main building and use for an accessory use.
- **ACCESSORY USE.** A use commonly recognized as incidental and subordinate to the principal use or building located on the same lot. An accessory use may be located in the principal building or in an accessory structure, or outside, or either as long as it is done consistent with all applicable regulations of this Zoning Code.

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- **ACCESS BY EASEMENT or EASEMENT ACCESS.** A vehicular access way constructed within a common easement which provides access to lots or parcels. Such easement shall have a minimum width of 66 feet. The access way shall be constructed and maintained to a standard which will provide continuous access for safety services operating within the Village.
- **ACREAGE, NET.** The actual land available for development within a parcel after the exclusion of road rights-of-way and other such areas not available for development purposes.
- **ADEQUATE PERMANENT ACCESS.** An easement or right-of-way of sufficient width for roadway and snow storage purposes without infringing on neighboring or adjacent property. The minimum adequate permanent access shall be 66 feet in width.
- **ALTERATIONS.** Any change in construction or type of occupancy of a building; any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or any moving of a structure from one location to another in accordance with all approved field changes.
- **AS-BUILT PLANS.** Plans based on actual measurements of a completed building or development.
- **AUTHORIZED VILLAGE OFFICIAL.** A police officer, the Planning Zoning Administrator or other personnel of the village authorized by this code or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.
- **AWNINGS.** See **MARQUEE**.
- **BASEMENT.** A story having part, but not more than one-half of its height below finished grade.

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- **BED AND BREAKFAST ESTABLISHMENT.** An owner-occupied dwelling, used and occupied as a single-family residence, having, as an accessory use therein, public lodging rooms and facilities for, and serving food to, pre-registered transient guests, which meets the requirements of §424., of this Zoning Code.
- **BENEFIT, RECOGNIZABLE AND SUBSTANTIAL.** A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonable foreseeable detriments of the proposed development and use(s), including, without limitation: long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis; reducing to a significant extent the nonconformity of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.
- **BOARD OF APPEALS.** The Village of Elk Rapids Zoning Board of Appeals (Z.B.A.).
- **BOAT DOCKAGE.** A dock, mooring, slip shore station, or other facility that is used to secure temporarily a motor boat of any horsepower, or any non-motorized watercraft more than 20 feet in length, to any lake frontage, regardless of the distance from the water's edge.
- **BUILDING.** Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. Buildings shall include tents, awnings, and vehicles located on private property and used for purposes of a building, whether or not mounted on wheels.

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- **BUILDING AREA.** The total area, taken on a horizontal plane at the main grade level, of the principal building and all accessory buildings exclusive of uncovered porches, terraces, decks, patios, and steps.
- **BUILDING ENVELOPE.** The ground area of a lot which is defined by the minimum setback and spacing requirements within which construction of a principal building and any attached accessory structures (such as a garage) is permitted by this Code, exclusive of uncovered porches, terraces, decks, patios, and steps. For condominium developments, the building envelope shall be illustrated on a site plan.
- **BUILDING, FRONT LINE OF.** The line that coincides with the face of the building nearest the front line of the lot. This face includes sun parlors and enclosed porches and certain decks but does not include uncovered steps.
- **BUILDING, HEIGHT OF.** The vertical distance as measured from the mean elevation of the finished grade to the highest point of the building for flat and mansard roofs; and to the mean height level between the highest eave and ridge of the building for gable, hip, and gambrel roofs.
- **BUILDING LINE** or **BUILDING SETBACK LINE.** A line parallel to a street right-of-way line, shore of a lake, edge of stream, river bank, or side or rear lot line that is established on a parcel of land or on a lot for the purpose of prohibiting construction between such line and right-of-way, side or rear lot line, public area, shore of a lake, edge of a stream, or river bank.
- **BUSINESS CENTER.** A building or group of buildings on one or more parcels of land constructed as an integral land use for commercial, institutional, or similar occupancy.
- **CAMPGROUND.** Any part of a tract of land where sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for temporary living quarters and five or more recreational units.
- **CAPTION.** The name by which the plat is legally and commonly known.
- **CARRIAGE HOUSE.** A small building, usually part of an estate or adjacent to a main house, used for housing coaches, carriages, and other vehicles.
- **CELLAR.** A story having more than one-half of its height below the average finished level of the adjoining ground.

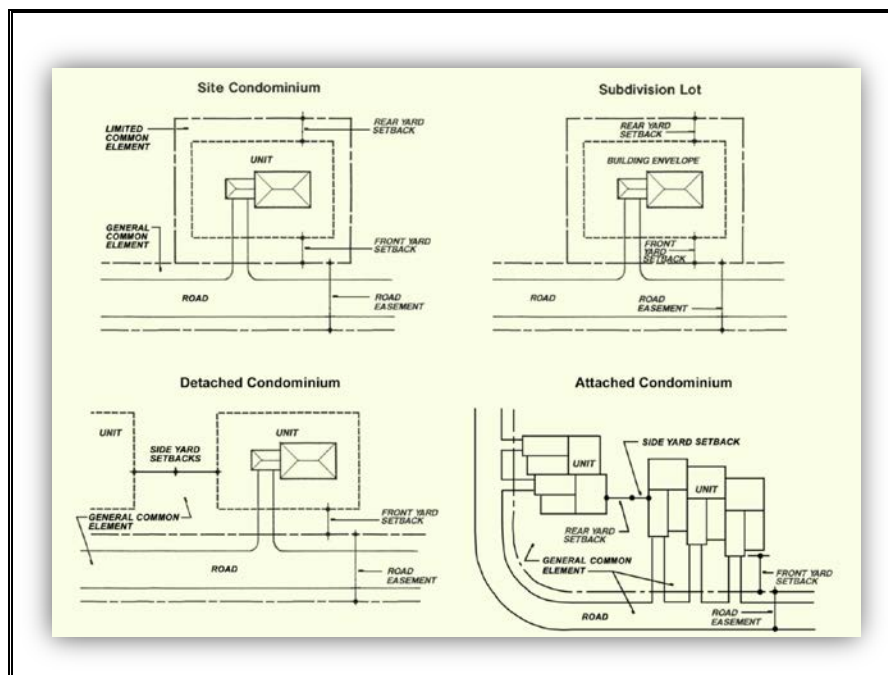
VILLAGE OF ELK RAPIDS ZONING CODE

- **CHILD CARE FACILITY.** A facility for the care of minor children (persons under 18 years of age), as licensed and regulated pursuant to the terms and conditions of P.A. 116 of 1973, as amended, being M.C.L.A. §§ 722.111 through 722.128, and P.A. 218 of 1979, as amended, and as further defined as follows:
 - a. **DAY CARE CENTER:** A facility other than a private residence, receiving more than six (6) preschool or school age children for group day care for periods of less than twenty four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, 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 organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.
 - b. **FAMILY CHILD CARE HOME.** A private home in which one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. **FAMILY CHILD CARE HOME** includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
 - c. **FOSTER FAMILY HOME:** A private home in which at least one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
 - d. **FOSTER FAMILY GROUP HOME:** A private home in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
 - e. **GROUP CHILD CARE HOME.** A private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. **GROUP CHILD CARE HOME** includes a home in which care is given to an unrelated minor child for more than four weeks

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during a calendar year.

- **COMMERCIAL DEVELOPMENT.** A commercial center providing building areas, parking areas, service areas, screen planting areas, as well as widening, turning movement, and safety-oriented roadway improvements, as further defined in §473.
- **COMMON ELEMENTS.** A part of a parcel of land together with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and occupants of the individual building units on the parcel.
- **CONDOMINIUM ACT 59 OF 1978, AS AMENDED.** M.C.L.A. 559.101 et. seq.
- **CONDOMINIUM, SITE.** Any parcel of land which may be divided as a condominium under Act 59 of the Public Acts of 1978, as amended, into two or more parts for the purpose of being occupied by either separate or attached structures or for the purpose of a part being dedicated to some common use. This definition shall be deemed not exclusive and the definition of **SITE CONDOMINIUM** shall include any other description which may be statutorily or judicially required or which may be appropriate by common usage.
- **CONDOMINIUM SUBDIVISION.** Equivalent to the term **SUBDIVISION**.

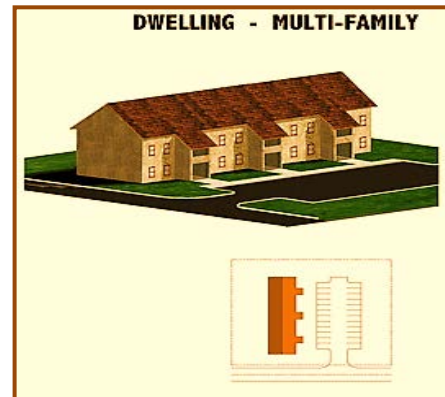
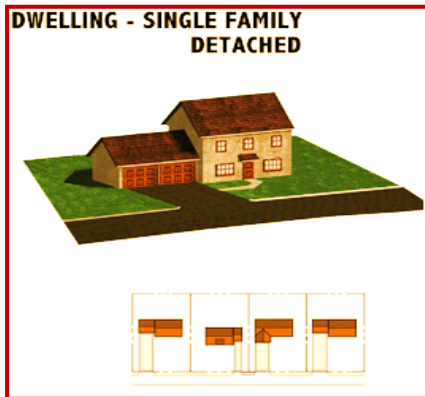


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- **CONSTRUCTION, ACTUAL.** The start of new construction and the purchase of building materials of a substantial amount toward erecting the subject project. The making of preparatory plans, landscaping of the site, removal of an existing structure, approvals of a site plan, or obtaining a building permit is not actual construction.
- **COUNTY DRAIN COMMISSIONER.** The Antrim County Drain Commissioner.
- **COUNTY HEALTH DEPARTMENT.** The Antrim County Health Department.
- **COUNTY PLAT BOARD.** The Antrim County Plat Board.
- **COUNTY ROAD COMMISSION.** The Antrim County Road Commission.
- **CROSSWALK or PEDESTRIAN WALKWAY.** A right-of-way, dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.
- **DECIBELS.** A unit of measurement of the intensity of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.
- **DECK.** An unroofed structure used for outdoor living purposes which may or may not be attached to a building and which protrudes more than four inches above finished grade.
- **DEDICATION.** The intentional granting of land to public use by the owner.
- **DENSITY.** The number of dwelling units on, or to be developed upon, a net acre of land.
- **DISTRICT.** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements, and height limitations.
- **DWELLING.** Any building or structure or part thereof occupied as the home, residence or sleeping place of one or more persons either permanently or transiently, regardless of whether cooking facilities exist.
 - a. **DWELLING, MULTI-FAMILY.** A dwelling other than a Single-Family or Two-Family dwellings, including apartment houses, cooperatives, and condominiums.
 - b. **DWELLING, SINGLE-FAMILY.** A detached building designed for or occupied exclusively by one family.

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- c. **DWELLING, TWO-FAMILY:** A building designed exclusively for occupancy by two (2) families independently of each other and having separate cooking and bath facilities for each.
- d. **DWELLING UNIT.** A building or portion thereof designed exclusively for residential occupancy by one family regardless of whether cooking facilities exist.



DWELLING – TWO-FAMILY

- **EASEMENT.** A right-of-way granted, but not dedicated, for limited use of private land for private, public or quasi-public purpose, such as for franchised utilities, a conservation easement or an access easement for a private road or service drive, and within which the owner of the property shall not erect any permanent structures.

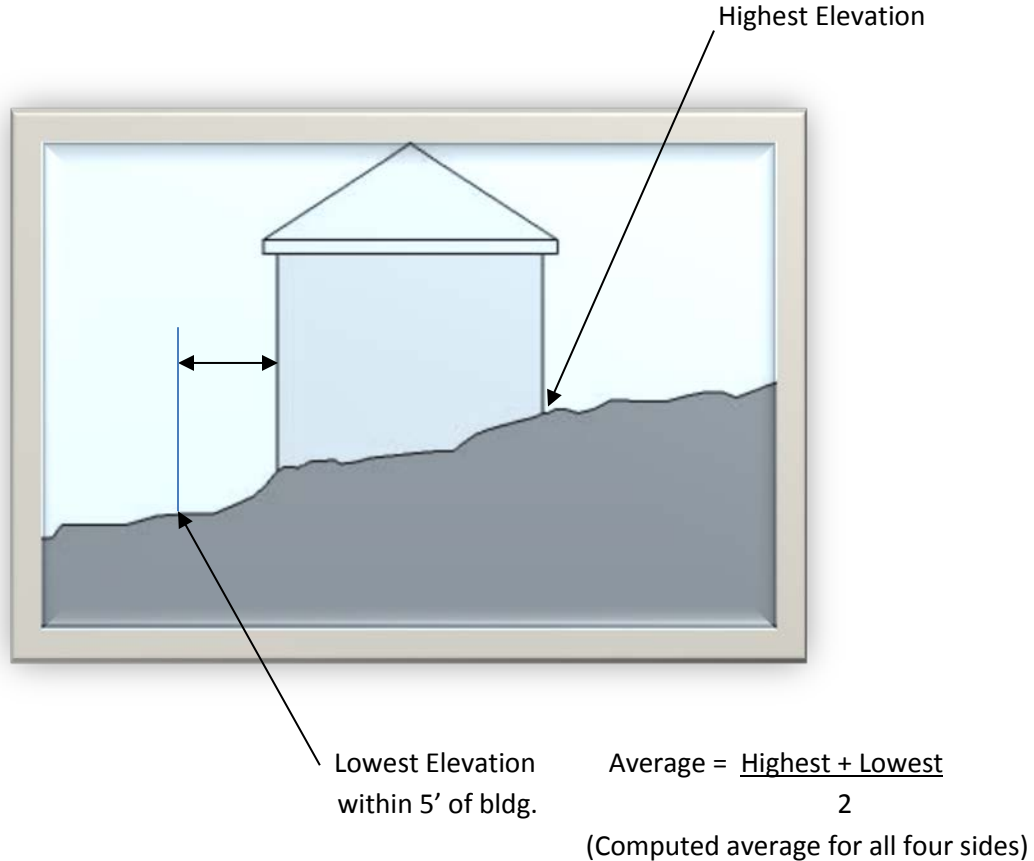
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- **EFFECTIVE DATE OF THIS ZONING CODE.** Whenever this title refers to the effective date of this Zoning Code, the reference shall be deemed to also include the effective date of any amendments to this title if the amendment, rather than this Zoning Code as originally adopted, creates a non-conforming situation.
- **ERECTED.** Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of erection.
- **ESSENTIAL SERVICES.** The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead electrical, gas, telephone transmissions or distribution systems, including poles, wires, main drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories. Buildings necessary for the furnishing of essential services by such public utilities, departments or commissions shall comply with the requirements of §709.F.
- **EXCAVATION:** Any breaking of ground, except common household gardening and ground care.
- **EXISTING BUILDING.** A building already existing or one for which the foundations are in place prior to the effective date of this Zoning Code or any relevant amendment thereto.
- **EXISTING USE.** An actual use of premises or structures that was in operation, openly, visibly, and notoriously prior to the effective date of this Zoning Code or any relevant amendment thereto.
- **EXPENDITURE.** A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments.
- **FAMILY.** An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, and not more than one additional unrelated person, domiciled as a single, domestic, housekeeping unit in a dwelling unit; or a collective number of individuals domiciled in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students, nor other groups whose domestic relationship is transitory, seasonal, or for a limited duration such as a school term or other similar determinable period.

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- **FENCE.** Any construction or erection of limited cross-sectional width which encircles either wholly or partially a lot or parcel for the purpose of acting as a barrier to the movement of vehicles, persons or animals or to the act of viewing either into or beyond the parcel or area.
- **FLOODPLAIN.** The land adjoining the channel of a river, stream, water course, lake or other body of water which can be inundated by a flood. Along the Great Lakes shoreline, the floodplain is that area lying below the elevation 583.2 I.G.L.D., 1955, or 584.4 U.S.G.S. Upstream of the Elk Rapids Dam, and for Elk Lake, the floodplain is that area lying below the elevation 589.88 U.S.G.S.
- **FLOOR AREA, GROSS** (i.e. total floor area): The total floor area occupied by a use and measured to include all space used primarily or incidentally for such use.
- **FLOOR AREA, NET (I.E. SALES OR GROSS LEASABLE AREA):** The total floor area occupied by a commercial use customarily open to the public for the sale of merchandise or services, or to serve patrons, clients, or customers. Areas used or intended to be used principally for the storage or processing of merchandise, hallways, mechanical equipment rooms, rooms for heating and cooling equipment rooms, and bathrooms shall be excluded from this computation. Measurement of gross leasable or useable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. Where calculations are not provided, the useable or gross leasable floor area shall be assumed to be 80% of the gross floor area.
- **GARAGE, PRIVATE.** An accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles owned and used by the occupants of the building to which it is accessory.
- **GASOLINE SERVICE STATION.** Any area of land, including any structures thereon, used or designed for the supply of gasoline, oil, or other fuel for the propulsion of vehicles. This term shall also mean any area or structure used or designed for polishing, greasing, washing, cleaning, or servicing such motor vehicles.
- **GOVERNING BODY.** The Village Council.
- **GRADE, AVERAGE FINISHED.** The elevation of completed surfaces of lawns, walks, patios, roads and other such surfaces within any lot of record as determined by the Zoning Administrator.

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- **GREENBELTS** or **BUFFER PARKS.** A parcel of land or an easement privately restricted or publicly dedicated as open space, located between incompatible uses for the purpose of protecting and enhancing the environment.
- **GUEST UNIT.** A room or group of rooms occupied, arranged, or designed for occupancy by one or more guests for compensation.
- **HAZARDOUS SUBSTANCE.** “Hazardous substance” means one of the following:
 - a. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
 - b. “Hazardous substance” as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, Public Law 96-510, 94 Stat. 2767.

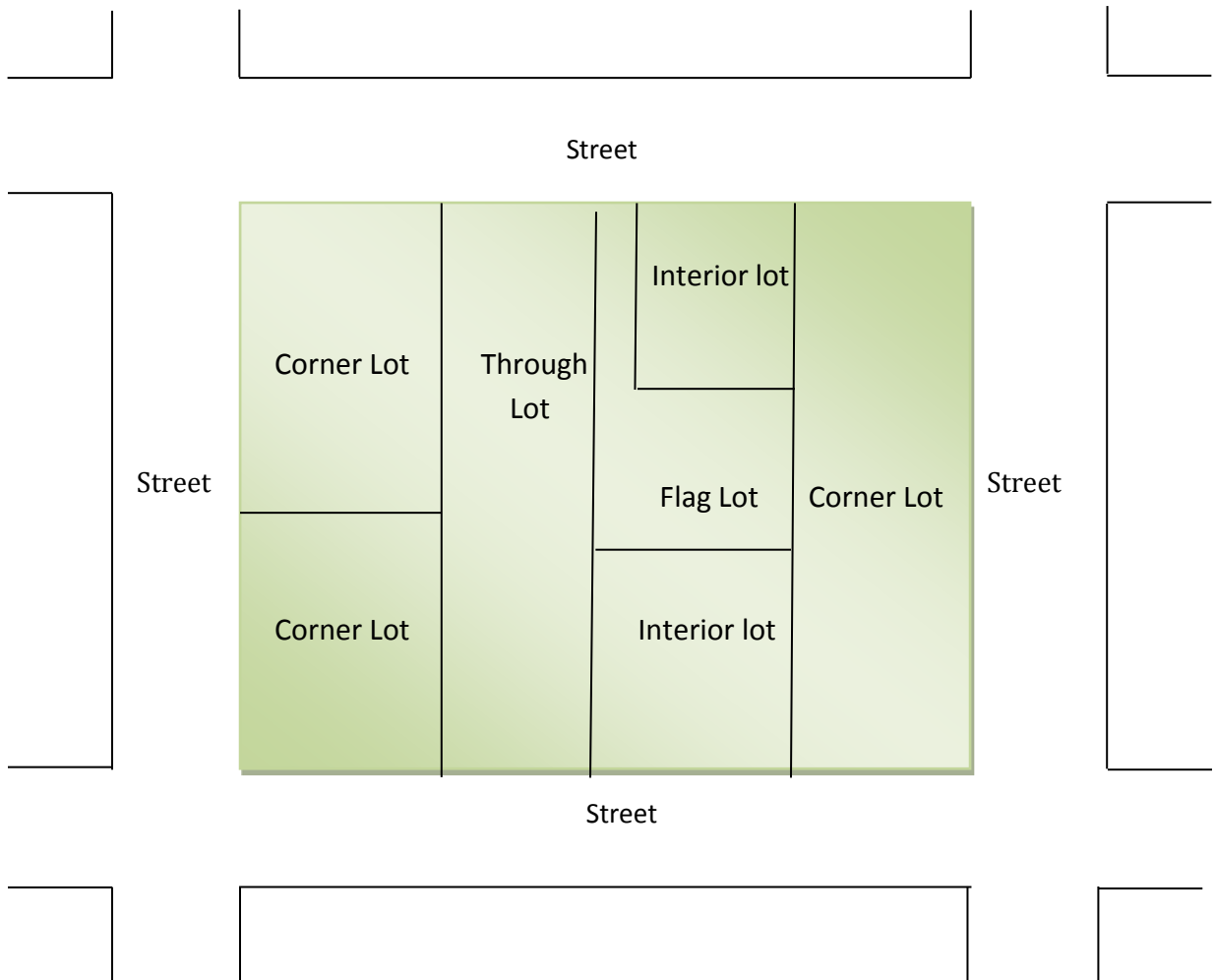
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- c. "Hazardous waste" as defined in the Hazardous Waste Management Act, Act No. 64 of the Public Acts of 1979, as amended, M.C.L.A. §§ 299.501 et seq.
- d. "Petroleum" as defined in the Leaking Underground Storage Tank Act, Act No. 478 of the Public Acts of 1988, as amended, M.C.L.A. §§ 299.831 et seq.
- **HIGH WATER MARK.** The highest normal water level of the major lakes, rivers, and streams within the village based on water level history and/or impoundment control. The water mark on Grand Traverse Bay shall be the high water mark, elevation of 581.0 U.S.G.S. or 579.8 I.G.L.B., 1955.
- **HIGHWAY.** Any public thoroughfare in the village, including federal, state, and local highways.
- **HOME OCCUPATION.** An accessory use of a professional, service, or business character, which is conducted within a dwelling by family residents, which is secondary and incidental to the use of the dwelling for living purposes and which does not change the residential character thereof as regulated in §425.
- **IMPROVEMENTS.** Any structure incident to servicing or furnishing facilities for a subdivision or the installation and maintenance of those facilities, such as grading, street surfacing, curbs and gutters, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals, and other appropriate ties, along with appurtenant construction. The term includes those features and actions associated with a project considered necessary by the body or official granting zoning approval to protect natural resources and the health, safety, and welfare of the residents of the village and future users or inhabitants of the proposed project or project area; it also includes the installation and maintenance of roadways, lighting, utilities, sidewalks, screening, and drainage.
- **JUNK YARD.** Any land or building where waste or used or second-hand materials is bought and sold, exchanged, stored, baled, parked, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A **JUNK YARD** includes automobile wrecking yards and any area of more than 50 square feet allocated for storage and the keeping or abandonment of junk. However, **JUNK YARD** does not include uses and areas established entirely within enclosed buildings.
- **KENNEL.** Any lot or premises used for the sale, boarding, keeping, or breeding of five or more dogs, cats or other household pets.

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- **LAND USE PERMIT.** A Zoning Compliance Permit, Special Use Permit, or Planned Unit Development Permit required for any change in use of land or structure in accordance with the provisions of this Zoning Code.
- **LANDSCAPING:** The treatment of the ground surface with live plant materials normally grown in Antrim County such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative natural or processed materials, such as wood chips, crushed stone, boulders or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping if provided in combination with live plant material.
- **LEGAL AUTHORITY.** An individual having a valid and recorded fee equitable or conventional ownership interest in a property or an individual having been given a written legal authority to act on behalf of such individual.
- **LINE, STREET.** The dividing line between a street right-of-way and a lot.
- **LOT.** A single parcel of land which is occupied or intended for occupancy by a use permitted in this Zoning Code and which provides the open, parking, and loading spaces required by this Code. In the case of residential use, there shall be only one principal building, together with its accessory building, on each parcel. The parcel of land may consist of one or more lots of record designated by a recorded plat or of one or more recorded metes and bounds parcels. A lot shall not be severed by road right-of-way easements or dedications. Lot measurements shall exclude all road right-of-way easements or dedications. Every lot shall have frontage on a public street or approved adequate permanent access. LOT shall also mean a measured portion of a parcel or tract of land which is described and fixed in a recorded plat. Lots established after the effective date of this Zoning Code shall have frontage upon a public street unless established as site condominiums or located within an approved Planned Unit Development.
 - a. **LOT, CORNER.** A lot which has at least two contiguous sides abutting upon streets.
 - b. **LOT, DEPTH OF.** The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.
 - c. **LOT, FRONT OF.** That lot line which is the street line of the principal street or right-of-way providing access to a lot.
 - d. **LOT, INTERIOR.** A lot other than a corner lot.

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- e. **LOT LINE.** The lines bounding a lot as herein described. For lots having lake or river frontage the water mark shall be considered the rear or side lot line.
- f. **LOT LINE, ZERO.** A condition requiring no set back from one lot line, as is the case for semi-detached buildings on different lots.
- g. **LOT OF RECORD.** A lot which is part of a subdivision whose map was on record in the office of the Register of Deeds in the county on the effective date of this Zoning Code, or a lot, described by metes and bounds, of which the deed, land contract, or land contract memoranda was on record in the Office of the Register of Deeds in the county on the effective date of this Zoning Code.

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- h. **LOT, WIDTH OF.** The width measured along the front building setback line.
- **MAJOR THOROUGHFARE.** US-31 Highway and Ames Street.
 - **MARINA.** A commercial boat basin or dock with or without facilities for boat sales, berthing, and servicing all types of watercraft including providing supplies, provisions, repairs, parts, fishing licenses and supplies, and equipment rental facilities.
 - **MARQUEE.** A roof-like structure, including awnings, often bearing a signboard, projecting over an entrance to a building.
 - **MASTER PLAN:** The Village of Elk Rapids/Elk Rapids Township Collaborative Master Plan, and any corridor or sub-area plans, recommended by the Planning Commission and Adopted by the Village Council, as amended from time to time.
 - **MECHANICAL AMUSEMENT ARCADES.** Any place in which a substantial and significant portion of the business is devoted to operating mechanical amusement devices, or in which more than five mechanical amusement devices are located and available for operation. A **MECHANICAL AMUSEMENT ARCADE** shall not include the following:
 - a. Mechanical amusement devices located in bars, taverns, cocktail lounges and restaurants which are properly licensed by the state, when the devices are an integral part of the licensed operation and available only to tavern and restaurant patrons.
 - b. Mechanical amusement devices located in motels or hotels which are generally available only to registered guests.
 - c. Vending machine dispensing materials which can be utilized away from the premises where the machine is located.
 - d. Mechanical amusement devices which are located on property used solely for a residential purpose or a private club and are not available for use by the public.
 - **MECHANICAL AMUSEMENT DEVICE.** Any machine which, upon the insertion of a coin, slug, token, plate, or disk or upon payment of a price, may be operated by the public generally for use as a game, entertainment, or amusement, including but not limited to games registering a score, electronic video games, mechanical and/or electronic devices such as marble machines, pinball machines, mechanical grab machines, shuffle board game machines, pool tables, billiard tables and all game operations or transactions similar thereto, whether operated by hand, electric power, or combination thereof.
A Mechanical Amusement Device shall not include the following:

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- a. Juke box or other similar device which plays only music for money;
 - b. Full-size bowling lane or alley; or
 - c. Movie theater seating more than ten persons.
- **MEDICAL MARIHUANA DEFINITIONS:**
 - a. **MEDICAL MARIHUANA CULTIVATION FACILITY.** A use where medical marihuana plants are grown or manufactured on a property as permitted by the Michigan Medical Marihuana Act and this section.
 - b. **MEDICAL USE OF MARIHUANA.** The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
 - c. **PRIMARY CAREGIVER.** A person who is at least 21 years old, who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs, and is in compliance with any applicable requirements set forth in the Michigan Medical Marihuana Act.
 - d. **QUALIFYING PATIENT.** A person who has been diagnosed by a physician as having a debilitating medical condition and is in compliance with any applicable requirements set forth in the Michigan Medical Marihuana Act.
 - e. **RESIDENCE.** The place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging.
 - **MOBILE HOME.** A structure, transportable in one or more sections, built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities. The plumbing, heating, air-conditioning and electrical systems are part of the structure. **MOBILE HOME** does not include a recreational vehicle.
 - **MOBILE HOME PARK, TRAILER COACH PARK, or PARK.** Any parcel or tract of land upon which three or more occupied trailer coaches are harbored on a continual or non-recreational basis or land which is offered to the public for that purpose, regardless of whether a charge is made therefore, together with any building, structure, enclosure,

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street, equipment, or facility used or intended for use incidental to the harboring or occupancy of trailer coaches, except as provided by M.C.L.A. § 125.2308.

- **MOTEL:** A series of attached, semi-detached or detached rental units containing a bedroom, bathroom and closet space, but typically not cooking facilities. Units shall provide for overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicle. A motel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.
- **MUNICIPAL CIVIL INFRACTION.** A violation of this ordinance punishable by civil fines as provided in §707.D., of this Code, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1962, as amended, being M.C.L.A. § 600.8701 et seq. and other applicable laws. Civil infractions may be processed by either civil citation or violation notices.
- **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.
- **MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE.** A written notice prepared by an authorized village official, directing a person to appear at the Village of Elk Rapids Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the Village, as authorized under §§ 8396 and 8707 of Act 236 of 1962, as amended, being M.C.L.A. §§ 600.8396 and 600.8707.
- **NAICS CODE.** The North American Industrial Classification System 2007, published by the Executive Office of the President of the United States, Office of Management and Budget, 1987.
- **NON-CONFORMING DIMENSION.** A nonconforming situation that occurs when the height, size or minimum floor space of a structure, the relationship between an existing building or buildings and other buildings or lot lines, or the lot width does not conform to the regulations applicable to the district in which the property is located.
- **NON-CONFORMING LOT.** A lot that was lawful upon the date it was created and has not been unlawfully expanded or extended, (and not created for the purposes of evading the restrictions of this Code) but which does not meet the minimum area or the minimum lot width requirement of the district in which the lot is located.

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- **NON-CONFORMING SITUATION.** A lawfully created existing lot or structure or a use of a lawfully-created existing lot or structure which, was lawful upon the date it was commenced and has not been abandoned, and has not been unlawfully expanded or extended, but does not conform to one or more of the currently applicable regulations to the district in which the lot or structure is located. Non-conforming signs shall not be regarded as **NON-CONFORMING SITUATIONS** for purposes of this Zoning Code, but shall be governed by the provisions of §529.K.
- **NON-CONFORMING USE.** An existing use of a building, structure, or land which, was lawful upon the date it was commenced and has not been abandoned, and has not been unlawfully expanded or extended, but does not conform to the currently applicable regulations for the district or zone in which it is situated.
- **OPEN SPACE.** Any space on a lot that is unoccupied by a structure which is open to the sky.
- **OUTLOT.** A lot, within the boundary of a recorded plat, set aside for purposes other than a building site and dedicated to public use or reserved for private use, and located within the boundary of a recorded plat.
- **PARKING SURFACE AREA:** That area required for each parking space including the area required for maneuvering lanes and access drives.
- **PARCEL or TRACT.** A continuous area or acreage of land which can be described as provided for in the Subdivision Control Act.
- **PATIO.** A paved open space, used for outdoor living purposes and constructed of any materials providing a hard, durable surface, which does not protrude more than four inches above the finished grade of the property.
- **PERMIT-ISSUING AUTHORITY.** The Planning and Zoning Administrator, Planning Commission, or Village Council, whichever has issued a particular permit or approval.
- **PLAN, GENERAL DEVELOPMENT.** The Village of Elk Rapids/Elk Rapids Township Collaborative Master Plan.
- **PLANNING COMMISSION.** The Village of Elk Rapids Planning Commission.
- **PLANNED UNIT DEVELOPMENT (P.U.D.).** A parcel, tract of land or a lot, of such minimum contiguous size as required by this Zoning Code which is planned, developed, operated and maintained under single ownership or management. It may contain one or more residential clusters, commercial, industrial, public or quasi-public land uses as permitted by

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this Code. A P.U.D. shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. A P.U.D. may contain a mixture of housing types and densities as well as a mixture of land uses, common open spaces and other innovations in design not otherwise easily accomplished under this Code, provided the requirements of §606., are met.

- **PLAT.** A map or charter of a subdivision of land.
 - a. **PRE-PRELIMINARY PLAT.** An informal plan or sketch drawn to scale showing the existing features of a site including its surroundings and the general layout of a proposed subdivision, site condominium, or condominium subdivision.
 - b. **PRELIMINARY PLAT.** A map, as described in §608.D.1 through §608.D.5., showing the salient features of a proposed subdivision of land including site condominiums or condominium subdivisions, submitted to an approving authority for preliminary consideration.
 - c. **FINAL PLAT.** A map of a subdivision of land made up in final form ready for approval and recording.
- **PLOT PLAN.** A non-scaled drawing of a plot of land depicting existing and proposed underground and above ground structures, dimensions and other information as required by this code. See §604.C.
- **PRACTICAL DIFFICULTY.** A situation existing where a legally existing lot or parcel cannot reasonably be put to a conforming use without a non-use variance from the requirements of this Zoning Code.
- **PRINCIPAL USE.** The main use to which the premises are devoted and the principal purpose for which the premises exists.
- **PRIVATE LAUNCHING RAMP.** A space or structure from which a boat may be launched for the use and benefit of the patrons of the waterfront marina or boat yard wherein the boat is berthed or docked.
- **PROPRIETOR, SUBDIVIDER, or DEVELOPER.** A person, firm, association, partnership, corporation, or combination of any of these which may hold any recorded or unrecorded ownership interest in land. The **PROPRIETOR** is the owner.

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- **PUBLIC UTILITY.** Any person, firm, corporation, municipal department, or board fully authorized to furnish to the public electricity, gas, steam, telephone, cable television, transportation, or water.
- **PUBLIC OPEN SPACE.** Land dedicated or reserved for use by the public. It may include parks, parkways, recreation areas, school sites, community or public building sites, streets and highways, and public parking spaces.
- **RECEIVER.** A television set or radio receiver.
- **RECREATION, PRIVATE.** A space, structure, apparatus, or combination thereof that is owned or operated by private interest for private recreational use.
- **RECREATIONAL UNIT.** A tent or a vehicular-type structure primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. A tent means a collapsible shelter of canvas or other fabric used for camping outdoors. **RECREATIONAL UNIT** shall include **TRAVEL TRAILER, CAMPING TRAILER, MOTOR HOME, TRUCK CAMPER, SLIDE-IN-CAMPER,** and **CHASSIS-MOUNT CAMPER** as defined in M.C.L.A. § 333.12501.
- **RECREATIONAL VEHICLE.** A recreational unit as defined in M.C.L.A. § 333.12501, exclusive of tents and non-motorized recreational equipment or watercraft less than 14 feet in length. In addition, a **RECREATIONAL VEHICLE** includes a trailer used for the transport of motorized recreational equipment, such as snowmobiles or watercraft, or of non-motorized recreational equipment, such as a fish shanty; motorized watercraft and other motorized recreational equipment; and a trailer along with motorized or non-motorized recreational equipment loaded for transport.
- **RE-PLAT.** The process of changing the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a **RE-PLAT**.
- **RIGHT-OF-WAY.** A road, street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles which, if used to establish a lot front, provides adequate permanent access.
- **ROAD.** A public or private thoroughfare, easement, or right-of-way for motor vehicles which affords the principal means of access to abutting property.
 - a. **ROAD, PRIVATE.** A road held in private ownership dedicated to the use of adjacent property owners and meeting the design and construction standards of the County

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Road Commission, except for the required blacktop road surface.

- b. **ROAD, PUBLIC.** A road dedicated to the public, accepted by the appropriate public road commission or Department of Transportation, and meeting the minimum construction standards of the Public Road Commission or Department of Transportation.
- **ROADSIDE STAND.** A structure for the display of agricultural products, without space for customers within the structure itself.
 - **SATELLITE SIGNAL RECEIVING ANTENNA.** An over-the-air reception device as cited in Rule 47 C.F.R. Section 1.4000 of Section 207 of the Telecommunications Act of 1996, as amended, where the viewer has an ownership or leasehold interest and exclusive use or control. The rule applies to the following types of video antennas:
 - a. A "dish" antenna that is one meter (39.37") or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite.
 - b. An antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via MMDS (wireless cable) or to receive or transmit fixed wireless signals other than via satellite.
 - c. An antenna that receives local television broadcast signals. Masts higher than 12 feet above the highest point of the roofline must meet the requirements of §472. This definition excludes AM/FM radio, amateur ("HAM") radio, Citizens Band ("CB") radio, and Digital Audio Radio Services ("DARS") signals.
 - **SETBACK.** See **BUILDING LINE.**
 - **SEXUALLY ORIENTED BUSINESS DEFINITIONS.** Includes but is not limited to: adult arcade, adult bookstore, adult video store, adult cabaret, adult motion picture theater; adult theater; nude model studio and sexual encounter center.
 - a. **ADULT ARCADE.** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or motion picture machines, projectors, or other image producing devices are maintained to show images for any form of consideration 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** and **SPECIFIED ANATOMICAL AREAS** (as those terms are defined elsewhere herein).

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- b. **ADULT BOOKSTORE.** A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
- ✓ Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe **SPECIFIED SEXUAL ACTIVITIES** and **SPECIFIED ANATOMICAL AREAS**; or
 - ✓ Instruments, devices, or paraphernalia which are designed for use in connection with **SPECIFIED SEXUAL ACTIVITIES**.
- c. **ADULT CABARET.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:
- ✓ Persons who appear in a state of semi-nudity or nudity;
 - ✓ Live performances which are characterized by exposure of **SPECIFIED ANATOMICAL AREAS** and by **SPECIFIED SEXUAL ACTIVITIES**;
 - ✓ Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of **SPECIFIED SEXUAL ACTIVITIES** and **SPECIFIED ANATOMICAL AREAS**; or
 - ✓ Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interest or titillation of an audience or customers.
- d. **ADULT MOTION PICTURE THEATER.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of **SPECIFIED SEXUAL ACTIVITIES** and **SPECIFIED ANATOMICAL AREAS**.
- e. **ADULT THEATER.** A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of **SPECIFIED ANATOMICAL AREAS** and by **SPECIFIED SEXUAL ACTIVITIES**.
- f. **ADULT VIDEO STORE.** A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

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- ✓ Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe **SPECIFIED SEXUAL ACTIVITIES** and **SPECIFIED ANATOMICAL AREAS**; or
- ✓ Instruments, devices, or paraphernalia which 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** and **SPECIFIED ANATOMICAL AREAS** and may still be categorized as **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 10% or more of the floor area of visible inventory within the establishment.

- g. **NUDE MODEL STUDIO.** Any place where a person who displays **SPECIFIED ANATOMICAL AREAS** is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration.
- h. **SEXUAL ENCOUNTER CENTER.** A business or commercial enterprise that, as one of its principal business purposes, offers for any consideration **SPECIFIED SEXUAL ACTIVITIES** in the form of activities between male and female persons and/or persons of the same sex.
- i. **SPECIFIED ANATOMICAL AREA.** The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.
- j. **SPECIFIED SEXUAL ACTIVITIES.** Includes any of the following:
 - ✓ The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
 - ✓ Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - ✓ Masturbation, actual or simulated; or
 - ✓ Excretory functions as part of or in connection with any of the activities set forth in this section.

- **SIGN, DEFINITIONS OF.**

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- a. **AWNING SIGN.** A permanent or temporary awning/canopy projecting over an entrance and/or window of a commercial business structure which may include a business identification message, symbol and/or logo.
- b. **BANNER.** A sign made of natural, synthetic, or plastic material used to call attention to a land use or product, service, or activity, not including pennants or flags.
- c. **BILLBOARD.** An off-premises sign owned by a person, corporation or the entity that engages in the business of selling the advertising space on that sign to an establishment, business, merchandise, service, or entertainment which is not sold, produced, manufactured, or furnished on the property on which said sign is located.
- d. **BUSINESS CENTER SIGN.** A sign which gives the name and other identification for a business center, names of individual businesses in the center, and direction to the center. However, such sign does not contain any additional information regarding individual stores, businesses, institutions, or organizations located within the complex or contiguous stores.
- e. **CHANGEABLE COPY SIGN.** A sign with a fixed or changeable display or message that may be changed by manual means.
- f. **COMMERCIAL ADVERTISING SIGN.** A sign, banner or flag erected in connection with a commercial advertising event such as a grand opening, merchandise sale or special service offering.
- g. **CONSTRUCTION SITE SIGN.** A sign that identifies the project, owner or developer, architect, engineer, contractor and sub-contractors, funding sources, and containing related information including, but not limited to, sale or leasing information.
- h. **ELECTRIC MESSAGE SIGN.** A sign with a fixed or changeable display or message composed of a series of lights that may be changed through electronic means.
- i. **FLAG.** A sign made of natural, synthetic, or plastic material having a distinctive size, color, and design used as an identifying symbol or emblem.
- j. **FLASHING SIGN.** Any illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color when such sign is in use.
- k. **GROUND SIGN.** A sign permanently supported by one or more uprights, poles, braces or some other structure placed in the ground surface and not attached to any building.
- l. **HOME OCCUPATION SIGN.** A non-illuminated sign announcing a home occupation, bed and breakfast, or professional service.

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- m. **IDENTIFICATION SIGN.** A sign containing the name of a business operating on the premises where located, the type of business, the owner and/or the street address and setting forth no other advertisement display.
- n. **ILLUMINATED SIGN.** A sign with an artificial light source incorporated internally or externally.
- o. **INFORMATION SIGN.** A small, non-advertising sign used to identify architectural features of a land use, such as building entrances, drop boxes, restrooms, handicapped ramps, and similar features.
- p. **INGRESS-EGRESS SIGN.** A sign located adjacent to the entrance or exit drives of a development to identify the points of vehicular ingress and egress.
- q. **MARQUEE SIGN.** An identification sign attached to a marquee, canopy, or awning.
- r. **NON-CONFORMING SIGN.** A sign that was lawful upon the date it was commenced and has not been abandoned, and has not been unlawfully expanded or extended, but which does not conform to one or more of the regulations set forth in this Code.
- s. **OFF-PREMISES ADVERTISING SIGN.** A sign which contains a message about a business or profession conducted – or a commodity, service, or activity offered – other than where the sign is located.
- t. **PENNANT.** A small, often triangular, tapering flag used in multiples as a device to call attention to a land use or activity.
- u. **PORTABLE SIGN.** A freestanding sign not permanently anchored or secured to either a building or the ground, including trailered or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object.
- v. **PROJECTING SIGN.** A sign which is affixed to any building or structure other than a marquee and which projects so that the message is not parallel to the wall to which it is attached.
- w. **ROOF SIGN.** A sign which is erected or painted over or on the roof of a building. No sign may extend above any parapet or be placed upon, cantilevered over or otherwise suspended above any roof surface. For purposes of this Article, roof surfaces constructed at an angle of 75 degrees or more from horizontal (such as mansard roofs) shall be regarded as wall space. This division shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.
- x. **SEASONAL COMMODITY SIGN.** A non-portable, on or off-premise sign which indicates the name of the farm, the sale of fresh fruit or vegetables produced

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seasonally on the premises, the location of the premises, and/or hours open to the public.

- y. **SIGN.** Any identification, description, illustration, display, or device, illuminated or non-illuminated, which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business, or solicitation. **SIGN** includes any permanently installed or situated merchandise or any emblem, painting, banner, pennant, placard, or temporary sign designed to advertise, identify, or convey information, except for window displays and national, state, municipal, and institutional flags. Removal of a sign includes removal of all sign support structures.
 - z. **SIGN FACE.** That part of a sign structure which is used to communicate graphically a message or announcement.
 - aa. **SIGN MAINTENANCE.** The cleaning, painting, repairing or replacing of defective parts of a sign in a manner that does not alter the copy, design, or structure of the sign.
 - bb. **SUBDIVISION SIGN.** A freestanding sign for a subdivision plat, illustrating the plat and indicating the location and/or availability of lots within the plat.
 - cc. **TEMPORARY SIGN.** A display sign, banner or advertising device with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations.
 - dd. **WALL SIGN.** A sign attached directly to or painted upon a building wall which does not project more than 12 inches therefrom. The exposed face of the sign must be in a plane parallel to the building wall or structure, such as a water tower. The sign shall not extend above the height of the building, wall, or structure.
- **SITE, AREA.** The total area within the property lines excluding street right-of-ways.
 - **SITE PLAN.** The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures in §607., to determine whether it meets the requirements of this Zoning Code.
 - **SKETCH PLAN.** A pre-preliminary plat.
 - **SPECIAL LAND USE.** A use of land whose characteristics may create nuisance-like impacts on adjoining lands unless carefully sited according to procedures and standards established in this Zoning Code.

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- **STATE LICENSED RESIDENTIAL FACILITY.** A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility licensing act, P.A. 218 of 1979, being M.C.L.A. §§ 400.701 to 400.737, or P.A. 116 of 1973, being M.C.L.A. §§ 722.111 to 722.128, and provides residential services for individuals under 24-hour supervision or care.
- **STORY.** That portion of a building included between the top surface of any floor and the top surface of the floor next above. The height of the top-most story is the distance from the top surface of the floor to the top surface of the ceiling joists. (See BASEMENT diagram)
- **STORY, HALF.** A space under a sloping roof where the line of intersection of roof decking and wall is not more than three feet above the top floor level and where not more than 60% of the floor area is completed for principal or accessory use. (See BASEMENT diagram)
- **STREET.** A right-of-way which provides for direct vehicular and pedestrian access to individual abutting properties including the following:
 - a. **CUL-DE-SAC.** A local street of short length having one end terminated by vehicular turn-around.
 - b. **LOCAL STREET.** A street which is intended primarily for access to abutting properties and is designated a local street on the village thoroughfare or street plan.
 - c. **MARGINAL ACCESS STREET.** A local street which is parallel and adjacent to arterial streets, which provides access to abutting properties and protection from through traffic and which does not carry through traffic.
 - d. **PRIMARY STREET.** Those streets of considerable continuity which are designated as primary streets on the village thoroughfare or street plan.
 - e. **STREET LINE.** The legal line of demarcation between a street and abutting land.
 - f. **STREET WIDTH.** The shortest distance between the lines delineating the right-of-way of streets.
- **STRUCTURE.** Any production or piece of material artificially built up or composed of parts joined in some definite manner; any construction, including dwellings, garages, buildings, mobile homes, signs and sign boards, towers, poles, antennae, swimming pools, and earth sheltering for earth-sheltered structures, decks, fences greater than four feet or more or other like objects, but not including fences up to four feet in height, uncovered steps,

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access steps required to negotiate changes in site elevation, landscape mounds, or sidewalks, patios, drives, and paved areas which do not protrude above the finished site grade.

- **SUB-DIVIDE or SUB-DIVISION.** The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates five or more parcels of land each of which is ten acres or less in area; or where five or more parcels of land each of which is ten acres or less in area are created by successive divisions within a period of ten years.
- **SUBDIVISION CONTROL ACT.** Act 288 of the Public Acts of 1967, State of Michigan, being M.C.L.A. §§ 560.101 et seq.
- **SURVEYOR.** A land surveyor licensed to practice in the state.
- **TEMPORARY DWELLING UNIT.** A dwelling unit which is occupied for a continuous period not to exceed 30 days.
- **TOPOGRAPHICAL MAP.** A map showing existing physical characteristics, with contour lines that permit determination of proposed grades and drainage.
- **TRAILER COACH.** Mobile home, as defined herein.
- **TRAVEL TRAILER PARK.** Campground, as defined herein.
- **TRAVELED SURFACE OF ROADWAY.** For the purpose of establishing setbacks, that portion of the roadway surface the principal function of which is to provide for the passage of motor vehicles as they traverse the roadway, excluding therefrom the shoulder of the road which is principally used for the emergency stopping or parking of motor vehicles or for the passage of pedestrians and bicycles. The traveled surface of each lane of the roadway shall be at least 11 feet wide, thereby having a minimum of 11 feet of traveled surface either side of the centerline of a two-lane road; three traveled surfaces of 11 feet in width for a three-lane road or a two-lane road with a passing lane or turning lane at an intersection; and four traveled surfaces of 11 feet each in width for a four-lane road or a three-lane road with a passing lane or a turning lane at an intersection.
- **UNNECESSARY HARDSHIP.** A situation which exists when a legally established lot or parcel cannot be reasonably put to a conforming use allowed within the district within which the lot or parcel is located.

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- **USE.** The purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied.
- **VARIANCE, NON-USE.** A variance granted to provide relief from a specific non-use standard in this Zoning Code pursuant to the procedures provided herein.
- **VARIANCE, USE.** A variance which authorizes a land use on a parcel which otherwise is not permitted by this Zoning Code in the district in which the parcel is located.
- **WATERFRONT RECREATIONAL USE.** The use of a waterfront area for swimming, sunbathing, sitting, viewing, picnicking, walking, and the launching of non-motorized watercraft under 20 feet in length, excluding mooring and dockage of watercraft.
- **WATER MARK.** The highest normal water level of the major lakes, rivers, and streams within the village based on water level history and/or impoundment control. The water mark on Grand Traverse Bay shall be the high water mark, elevation of 581.0 U.S.G.S. or 579.8 I.G.L.B., 1955.
- **WATER RESOURCES COMMISSION.** The Water Resources Commission of the State Department of Natural Resources.
- **WETLAND:** Shall mean 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:
 - a. Contiguous to any lake, pond, river or stream.
 - b. Not contiguous to any lake, pond, river or stream; and more than five (5) acres in size.
 - c. Not contiguous to any lake pond, river or stream; and five (5) acres or less in size if the Michigan Department of Environmental Quality (MDEQ) 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 MDEQ has so notified the owner.
- **WIND ENERGY SYSTEMS DEFINITIONS:**
 - a. **AMBIENT SOUND LEVEL:** The amount of background noise at a given location prior to the installation of a WES which may include, but is not limited to, traffic,

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machinery, lawnmowers, general human activity and the interaction of the wind with the landscape. Ambient Sound Level is measured on the Decibel – dB(A) weighted scale as defined by the American National Standards Institute (ANSI).

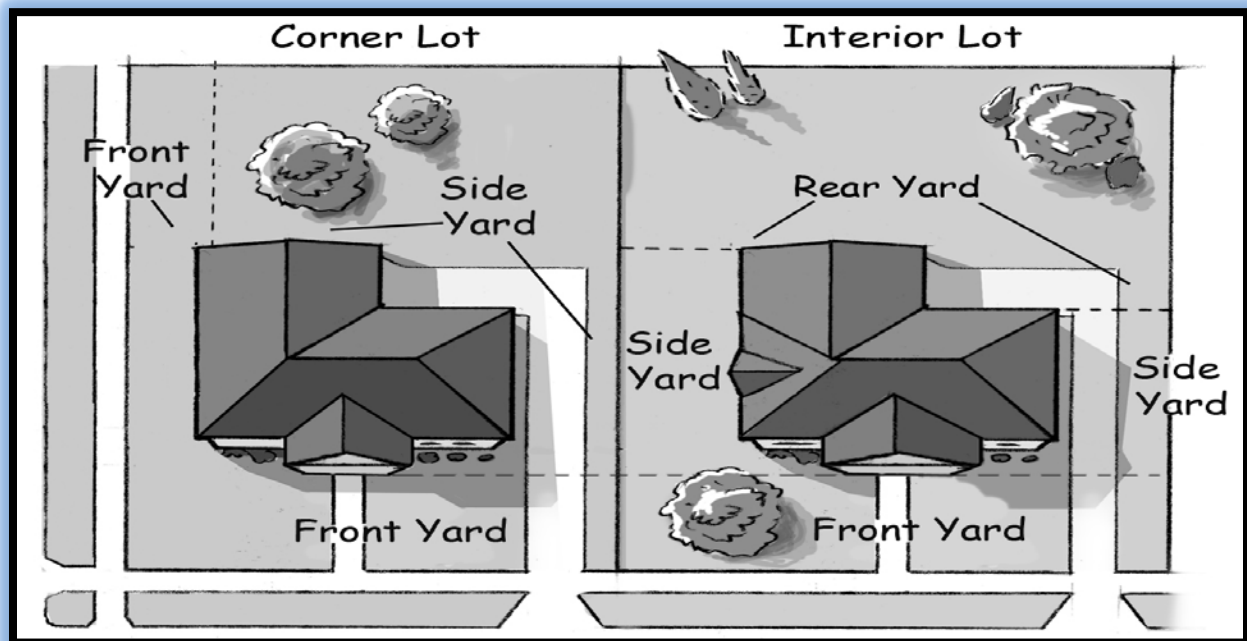
- b. **ANEMOMETER:** A wind speed indicator constructed for the purpose of analyzing the potential for installing a WES at a given location. An Anemometer includes a tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, a data logger, instrument wiring and telemetry devices used to monitor or transmit wind speed and wind flow characteristics over a period of time. Telemetry data can include instantaneous wind speeds or characterizations of a wind resource at a given location.
- c. **DECOMMISSIONING:** The process of terminating the operation of a WES by completely removing the entire WES and all related buildings, structures, foundations, supports and equipment.
- d. **NACELLE:** The encasement which houses the interior electricity generating components, gear box, drive train, brakes and related equipment of a WES.
- e. **NET METERING:** A special metering and billing agreement between utility companies and their customers, which facilitates the connection of sustainable energy generating systems to the power grid.
- f. **OCCUPIED BUILDING:** A structure used by, or which houses, residents, customers, workers or visitors.
- g. **OPERATOR:** The entity responsible for the day-to-day operations and maintenance of a WES.
- h. **OWNER/APPLICANT:** The person, firm, corporation, company, limited liability corporation or other entity seeking Village approval under this Section, as well as its successor(s), assign(s) or transferee(s), of a WES or Anemometer. An owner/applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WES or Anemometer. The duties and obligations regarding a zoning approval for any approved WES or Anemometer shall be with the owner/applicant of the WES or Anemometer, and jointly and severally with the owner and operator or lessee of the WES or Anemometer if different than the owner/applicant.
- i. **ROTOR:** A blade of a WES that is connected to the rotor hub and nacelle and acts as an airfoil assembly that exacts kinetic energy directly from the wind.

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- j. **ROTOR DIAMETER:** The cross-sectional dimension of the circle swept by the rotating blades of a WES.
 - k. **SMALL TOWER MOUNTED WIND ENERGY SYSTEM (STM-WES):** A tower-mounted wind energy system with a maximum Total Height of forty feet that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) STM-WESs have nameplate capacities that do not exceed thirty (30) kilowatts.
 - l. **SMALL STRUCTURE MOUNTED WIND ENERGY SYSTEM (SSM-WES):** A structure-mounted wind energy system that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) SSM-WESs are attached to a structure's roof, walls or another elevated surface. SSMWESs have nameplate capacities that do not exceed ten (10) kilowatts. The height of a SSM-WES unit does not exceed fifteen (15) feet as measured from the highest point of the roof or structure, excluding chimneys, antennae or other similar features.
 - m. **SURVIVAL WIND SPEED:** The maximum wind speed, as designated by the WES manufacturer, at which a WES in an unattended state is designed to survive without damage to any structural equipment or the loss of the ability to function normally.
 - n. **TOTAL HEIGHT:** The vertical distance as measured from the ground level of the base of a WES tower to the uppermost vertical extension of a rotor blade, or the maximum height reached by any part of a WES.
 - o. **TOWER:** A free-standing monopole or mono-tube that supports a WES.
 - p. **UPWIND TURBINES:** As opposed to a "downwind turbine," an Upwind Turbine has the rotor blades facing into the wind source direction.
 - q. **WIND ENERGY SYSTEM (WES):** A structure-mounted or tower-mounted system that converts wind energy into electricity.
- **YARD.** An open space on a lot that is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be the minimum horizontal distance between the corresponding lot line and the nearest point of the main building or land use.
 - a. **YARD, FRONT.** A yard extending across the width of a lot between the front of the lot and the nearest point of the main building or land use.

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- b. **YARD, REAR.** A yard extending the full width of the lot and located between the rear line of the lot and the rear line of the building projected to the sidelines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the nearest point of the main building or land use.
- c. **YARD, SIDE.** A yard situated between the main building and a side lot line and extending from the front yard to the rear yard.



- **ZONING COMPLIANCE PERMIT.** A permit required for any change in use of land or structure, in the exterior dimensions of a structure, in the location of a structure, or for any structural modification requiring a building permit; such permits are issued by the Zoning Administrator according to the provisions of this Zoning Code.
- **ZONING CODE.** The Village of Elk Rapids Zoning Code.
(Ord. passed 3-2-15)

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CHAPTER 300 – ZONING DISTRICTS

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CHAPTER 300 – ZONING DISTRICTS

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§ 301. ZONING DISTRICTS ESTABLISHED.

For the purpose of this Zoning Code, the Village of Elk Rapids hereby establishes the following Zoning Districts:

R-1 - SINGLE-FAMILY RESIDENTIAL.
R-2 - SINGLE-FAMILY RESIDENTIAL.
R-3 - SINGLE-FAMILY RESIDENTIAL.
RM-L - MULTI-FAMILY RESIDENTIAL (LOW DENSITY).
RM-H - MULTI-FAMILY RESIDENTIAL (HIGH DENSITY).
RM-MH – MULTI-FAMILY RESIDENTIAL (MOBILE HOMES).
B-1 - LOCAL BUSINESS.
B-2 - CENTRAL BUSINESS DISTRICT.
B-3 - COMMERCIAL BUSINESS.
I-1 - INDUSTRIAL
P - PUBLIC LANDS.

(Ord. passed 3-2-15)

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§ 302. ZONING DISTRICT INTENT.

DISTRICT INTENT: R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
<p>The R-1 Zoning District is designed to accommodate lower density single-family and, where lots are more than twice the minimum lot area and lot width, two-family dwellings.</p> <p>Multiple family dwelling uses may be approved when lands in the zone are developed as a Planned Unit Development in accordance with §606.</p>	<p>Information</p> <ul style="list-style-type: none"> Satellite signal receiving antenna ≤ one meter Satellite signal receiving antenna > one meter (§427.)* <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> State licensed residential care facility ≤ (6) individuals <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> Bed & Breakfast Establishments (§424.)* Private households <p>Arts, Entertainment and Recreation</p> <ul style="list-style-type: none"> Museums, historical sites & similar institutions (§414.)* <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> Single family dwelling Two-family dwelling Short term rentals (§426.)* Mobile homes in residential districts (§413.)* Model dwelling units (§415.)* Accessory building, structure or use Accessory dwelling units (§431.) Home occupations (§425.)* Recreational vehicle and watercraft storage (§416.)* Solar collectors Private swimming pools (§418.)* Yard sales (§420.)* Public & private utility service lines Wind energy systems (§428.)* <p>*= Use Specific Standards in §406 Apply</p>	<p>Educational Services (§467.)*</p> <ul style="list-style-type: none"> Schools – Private Elementary and Secondary Colleges & Universities public and private <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> Nursing and residential care facilities (§467.)* Individual and family social services (§468.) (§469.)* <p>Arts, Entertainment and Recreation</p> <ul style="list-style-type: none"> Golf courses & country clubs (§465.)* <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> Rooming and boarding houses, Fraternity houses & similar organizations housing (§460.)* <p>Other Services</p> <ul style="list-style-type: none"> Religious organizations (§467.)* <p>Public Administration (§467.)*</p> <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> State licensed residential care facility 7 to 10 individuals, Group day care home (§468.) (§469.)* Planned Unit Developments (§606.) <p>*= Use Specific Standards in §450 Apply</p>

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DISTRICT INTENT: R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
<p>The R-2 Zoning District is designed to accommodate lower density single-family and, where lots are more than twice the minimum lot area and lot width, two-family dwelling units, in areas within the Village planning jurisdiction that have been identified as having historic value or Environmentally Sensitive Areas. The reduced required lot size reflects the small lot character of these established areas of the community.</p>	<p>Information</p> <ul style="list-style-type: none"> Satellite signal receiving antenna ≤ one meter Satellite signal receiving antenna > one meter (§427.)* <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> State licensed residential care facility ≤ (6) individuals <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> Bed & Breakfast Establishments (§424.)* Private households <p>Arts, Entertainment and Recreation</p> <ul style="list-style-type: none"> Museums, historical sites & similar institutions (§414.)* <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> Single family dwelling Two-family dwelling Short term rental (§426.)* Mobile homes in residential districts (§413.)* Model dwelling units (§415.)* Accessory building, structure or use Accessory dwelling units (§431.) Home occupations (§425.)* Recreational vehicle and watercraft storage (§416.)* Solar collectors Private swimming pools (§418.)* Yard sales (§420.)* Public & private utility service lines Wind energy systems (§428.)* <p>*= Use Specific Standards in §406 Apply</p>	<p>Educational Services (§467.)*</p> <ul style="list-style-type: none"> Schools – Private Elementary and Secondary Colleges & Universities public and private <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> Nursing and residential care facilities (§467.)* Individual and family social services (§468.) (§469.)* <p>Arts, Entertainment and Recreation</p> <ul style="list-style-type: none"> Golf courses & country clubs (§465.)* <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> Rooming and boarding houses Fraternity houses & similar organizations housing (§460.)* <p>Other Services</p> <ul style="list-style-type: none"> Religious organizations (§467.)* <p>Public Administration (§467.)*</p> <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> State licensed residential care facility 7 to 10 individuals, Group day care home (§468.) (§469.)* Planned Unit Developments (§606.) <p>*= Use Specific Standards in §450 Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICT INTENT: R-3 SINGLE FAMILY RESIDENTIAL DISTRICT

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
<p>The R-3 Zoning District is designed to accommodate single-family housing in residential areas that are presently platted at less than 65 foot width.</p>	<p>Information</p> <ul style="list-style-type: none"> Satellite signal receiving antenna ≤ one meter Satellite signal receiving antenna > one meter (§427.)* <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> State licensed residential care facility ≤ (6) individuals <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> Bed & Breakfast Establishments (§424.)* Private households <p>Arts, Entertainment and Recreation</p> <ul style="list-style-type: none"> Museums, historical sites & similar institutions (§414.)* <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> Single family dwelling Short term rentals (§426.)* Mobile homes in residential districts (§413.)* Model dwelling units (§415.)* Accessory building, structure or use Accessory dwelling units (§431.) Home occupations (§425.)* Recreational vehicle and watercraft storage (§416.)* Solar collectors Private swimming pools (§418.)* Yard sales (§420.)* Public & private utility service lines Wind energy systems (§428.)* <p>*= Use Specific Standards in §406 Apply</p>	<p>Educational Services (§467.)*</p> <ul style="list-style-type: none"> Schools – Private Elementary and Secondary Colleges & Universities public and private <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> Nursing and residential care facilities (§467.)* Individual and family social services (§468.) (§469.)* <p>Arts, Entertainment and Recreation</p> <ul style="list-style-type: none"> Golf courses & country clubs (§465.)* <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> Rooming and boarding houses Fraternity houses & similar organizations housing (§460.)* <p>Other Services</p> <ul style="list-style-type: none"> Religious organizations (§467.)* <p>Public Administration (§467.)*</p> <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> State licensed residential care facility 7 to 10 individuals, Group day care home (§468.) (§469.)* Planned Unit Developments (§606.) <p>*= Use Specific Standards in §450 Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICT INTENT: RM-MULTI-FAMILY ZONING DISTRICTS

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
<p>The RM, Multi-Family Zoning Districts are designed to accommodate multi-family dwelling units as well as some types of mobile homes used as dwellings in mobile home parks. The RM districts are differentiated for use and density purposes as follows:</p> <p>RM-L, Multi-Family, Residential Low Density District: The RM-L, Low Density Multiple District has an overall density not exceeding six (6) units per acre.</p> <p>RM-H, Multi-Family, Residential High Density District: The RM-H, High Density Multiple District has a density based on the following minimum lot area that shall be required in the RM-H District:</p> <ul style="list-style-type: none"> • One-family – 9600 ft² for each dwelling unit. • Two-family – 7260 ft² for each dwelling unit. • Multi-family – 8000 ft² for the first dwelling unit, plus 5000 ft² for each additional 3 or more bedroom units, 4000 ft² for each additional two bedroom unit, and 3000 ft² for each one bedroom or efficiency unit. <p>RM-MH, Multi-Family Residential Mobile Home District The RM-MH, Mobile Home Multiple District allows mobile home parks and mobile home sub-divisions in accordance with §471. and §533.</p>	<p>Residential Permitted Uses</p> <ul style="list-style-type: none"> • Single family dwelling • Two family dwellings • State licensed residential care facility ≤ (6) individuals • Private households • Bed & Breakfast Establishments (§424.)* • Cable television • Satellite signal receiving antenna one meter or less • Short term rentals (§426.)* • Mobile homes (§413.)* • Model dwelling units (§415.)* <p>Institutional Permitted Uses</p> <ul style="list-style-type: none"> • Schools – Public Elementary and Secondary • Public & private utilities • Museums, botanical and zoological gardens (§414.)* <p>Accessory Permitted Uses</p> <ul style="list-style-type: none"> • Accessory building, structure or use • Accessory dwelling units (§431.) • Home occupations (§425.)* • Private swimming pools (§418.)* • Recreational vehicle and watercraft storage (§416.)* • Satellite signal receiving antenna greater than one meter (§427.)* • Solar collectors • Yard sales (§420.)* • Wind energy systems (§428.)* <p>*= Use Specific Standards in §406 Apply</p>	<ul style="list-style-type: none"> • Multi-family dwellings (§470.)* • Rooming and boarding houses (§460.)* • Recreational vehicle parks and camp sites (§461.)* • Organizational hotels and lodging houses (§460.)* • Golf courses & country clubs (§465.)* • Mobile home parks and sub-divisions (§471.)* • Nursing and personal care facilities (§467.)* (§468.) • Schools – Private Elementary and Secondary (§467.)* • Colleges & Universities public and private (§467.)* • Individual and family social services (§467.)* • Group day care home (§468.) • State licensed residential care facility 7 to 10 individuals (§467.)(§468.)* • Religious organizations (§467.)* • Governmental uses (§467.)* • Planned Unit Developments (§606.) <p>*= Use Specific Standards in §450 Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICT INTENT: B-1 LOCAL BUSINESS DISTRICT

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
<p>The B-1, Local Business Zoning District is designed to accommodate a limited variety of commercial activities. Uses allowed in this district should be low-impact and have little effect on neighboring residential uses. Day time hours of operation are appropriate. Night lighting should be minimal. Structures should be of residential scale and should have a residential character to their architecture and landscaping.</p>	<p>Manufacturing</p> <ul style="list-style-type: none"> Printing and related support activities (§422.)* <p>Retail Trade</p> <ul style="list-style-type: none"> Food and beverage stores Health and personal care stores Clothing and clothing accessory stores Sporting goods, hobby, book and music stores <p>Information</p> <ul style="list-style-type: none"> Publishing Industries(§422.)* Satellite signal receiving antenna ≤ one meter Satellite signal receiving antenna > one meter (§427.)* <p>Finance and Insurance</p> <p>Real Estate, Rental and Leasing</p> <p>Professional, Scientific & Technical Services</p> <ul style="list-style-type: none"> Veterinary services – small animals(§422.)* <p>Management of Companies and Enterprises</p> <p>Administrative & Support & Waste Services</p> <p>*= Use Specific Standards in §406 Apply</p>	<p>Information</p> <ul style="list-style-type: none"> Libraries and archives (§467.)* <p>Educational Services (§467.)*</p> <ul style="list-style-type: none"> Schools – Private Elementary and Secondary Colleges & Universities public and private Technical and trade schools Other schools of instruction NEC <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> State licensed residential care facilities 7 to 10 individuals (§467.)(§468.)* Individual and family social services (§468.) Child care services (§468.) <p>Other Services</p> <ul style="list-style-type: none"> Religious organizations (§467.)* Parking lots and garages (§530.) <p>Public Administration (§467.)*</p> <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> Planned Unit Developments (§606.) <p>*= Use Specific Standards in §450 Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICY INTENT: B-1 LOCAL BUSINESS DISTRICT (cont.)

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
	<p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> • Offices of physicians • Offices of dentists • Offices of other health practitioners • Medical diagnostic & dental laboratories • State licensed residential care facilities ≤ (6) individuals <p>Arts, Entertainment, and Recreation</p> <ul style="list-style-type: none"> • Theatrical producers (§422.)* • Museums, historical sites & similar institutions (§414.)* • Aerobic dance or exercise center <p>Other Services</p> <ul style="list-style-type: none"> • Electronic & precision equipment repair • Personal & household goods repair • Personal care services • Coin operated laundry and dry cleaners (§422.)* • Religious, Civic, Professional and similar services <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> • Single family dwellings (§422.)* • Accessory building, structure or use • Private swimming pool (§418.)* • Yard sales (§420.)* • Public and private utility lines • Wind energy systems (§428.)* <p>*= Use Specific Standards in §406 Apply</p>	<p>*= Use Specific Standards in §450 Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICT INTENT: B-2 CENTRAL BUSINESS DISTRICT

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
<p>The B-2, Central Business District is designed to accommodate the traditional downtown commercial enterprises, such as, shopping oriented retail, offices, restaurants, personal service businesses, public facilities and the like. They should be of a type where people will visit several locations and walk from one establishment to the next. Convenient store front parking should not be a high priority. Establishments serving fast foods are not appropriate.</p>	<p>Manufacturing</p> <ul style="list-style-type: none"> • Printing and related support activities (§422.)* <p>Retail Trade</p> <ul style="list-style-type: none"> • Furniture and home furnishing stores • Electronics & appliance stores • Paint & wallpaper stores • Hardware stores • Nursery & garden centers (§411.)* • Food and beverage stores • Health and personal care stores • Clothing and clothing accessory stores • Sporting goods, hobby, book and music stores • General merchandise stores ≤ 3000 ft² • Misc. retail stores ≤ 3000 ft² <p>Transportation and Warehousing</p> <ul style="list-style-type: none"> • Postal service (§422.)* • Couriers and messengers (§422.)* <p>Information</p> <ul style="list-style-type: none"> • Publishing Industries (§422.)* • Motion picture & sound recording industries • Satellite signal receiving antenna ≤ one meter • Satellite signal receiving antenna > one meter (§427.)* <p>Finance and Insurance</p> <p>Real Estate, Rental and Leasing</p> <p>*= Use Specific Standards in §406.</p>	<p>Retail Trade</p> <ul style="list-style-type: none"> • General merchandise stores > 3000 ft² (§476.)* • Misc. retail stores > 3000 ft² (§476.)* <p>Transportation and Warehousing</p> <ul style="list-style-type: none"> • Water transportation (§454.) (§455.)* • Support activities for transportation (§452.)* <p>Information</p> <ul style="list-style-type: none"> • Libraries and archives (§467.)* <p>Educational Services (§467.)*</p> <ul style="list-style-type: none"> • Colleges & Universities public and private • Technical and trade schools • Other schools of instruction NEC <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> • State licensed residential care facilities 7 to 10 individuals (§467.) (§468.)* • Individual and family social services (§467.)* • Child day care services (§468.)* <p>Arts, Entertainment, and Recreation</p> <ul style="list-style-type: none"> • Marinas (§454.) (§455.)* • Coin operated amusement devices (§466.)* <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> • Inns within the Central Business District (§474.)* • Eating & drinking places > 3000 ft² (§477.)* • Drive-thru facilities (§462.)* <p>*= Use Specific Standards in §450. Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

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VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICT INTENT: B-2 CENTRAL BUSINESS DISTRICT (cont.)

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
	<p>Professional, Scientific & Technical Services</p> <p>Management of Companies & enterprises</p> <p>Administrative & Support & Waste Services</p> <ul style="list-style-type: none"> Administrative & support services <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> Offices of physicians Offices of dentists Offices of other health practitioners Medical diagnostic & dental laboratories <p>Arts, Entertainment, and Recreation</p> <ul style="list-style-type: none"> Performing arts, spectator sports & related businesses Theatrical producers (§422.)* Museums, historical sites & similar institutions (§414.)* Aerobic dance or exercise center <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> Eating & drinking places ≤ 3000 ft² <p>Other Services</p> <ul style="list-style-type: none"> Electronic & precision equipment repair Personal & household goods repair Personal care services Funeral home & funeral services Coin operated laundry and dry cleaners (§422.)* All other personal services Religious, Civic, Professional and similar services <p>*= Use Specific Standards in §406 Apply</p>	<p>Other Services</p> <ul style="list-style-type: none"> Dry cleaning & laundry services (except coin operated) (§452.)* Religious organizations (§467.)* Parking lots and garages (§530.) <p>Public Administration (§467.)*</p> <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> Planned Unit Development (§606.) <p>*= Use Specific Standards in §450 Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICT INTENT: B-2 CENTRAL BUSINESS DISTRICT (cont.)

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
	<p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> • Single family dwelling (§419.)* • Two family dwellings (§419.)* • Accessory building, structure or use • Solar collectors • Private swimming pool (§418.)* • Yard sales (§420.)* • Public and private utility lines • Wind energy systems (§428.)* <p>*= Use Specific Standards in §406. Apply.</p>	<p>*= Use Specific Standards in §450. Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICT INTENT: B-3 COMMERCIAL DISTRICT

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
<p>The B-3, Commercial District The B-3 Commercial District should involve retailers serving the broad community and surrounding area with non-shopping and larger purchase goods. Businesses which require convenient drive-up design are appropriate. Businesses which have larger storage requirements are appropriate. Included are food and overnight accommodation establishments, along with gas stations and other automotive services. Care should be taken to assure the preservation of community aesthetics in these areas.</p>	<p>Agriculture, Forestry, Fishing & Hunting (§422.)*</p> <ul style="list-style-type: none"> Forestry and logging Support activity for forestry <p>Construction (§422.)*</p> <ul style="list-style-type: none"> Special trade contractors <p>Manufacturing (§422.)*</p> <ul style="list-style-type: none"> Printing and related support activities <p>Wholesale Trade (§422.)*</p> <ul style="list-style-type: none"> Merchant wholesalers, durable goods Merchant wholesalers, non-durable goods <p>Retail Trade</p> <ul style="list-style-type: none"> Automotive parts, accessory, and tire stores Furniture & home furnishings Electronics & appliance stores Paint & wallpaper stores Hardware stores Nursery & garden supply stores (§411.)* Food and beverage stores Health and personal care stores Clothing and clothing accessory stores Sporting goods, hobby, book and music stores General merchandise stores ≤ 3000 ft² Misc. retail stores ≤ 3000 ft² Fireworks, retail ≤ 3000 ft² Manufactured/mobile home dealers (§412.) (§422.)* <p>*= Use Specific Standards in §406. Apply</p>	<p>Wholesale Trade</p> <ul style="list-style-type: none"> Fuel & ice dealers (458.)* <p>Retail Trade</p> <ul style="list-style-type: none"> Automobile dealers (§457.) (464.)* Other motor vehicle dealers (§463.) (464.)* Home centers (§452.)* Other building material dealers (§452.)* Outdoor power equipment stores (§452.)* Gasoline stations (458.)* General merchandise stores > 3000 ft² (§476.)* Misc. retail stores > 3000 ft² (§476.)* Planned shopping center (§473.)* <p>Transportation and Warehousing</p> <ul style="list-style-type: none"> Water transportation (§454.) (§455.)* Support activities for transportation (§452.)* <p>Information</p> <ul style="list-style-type: none"> Radio, television or micro-wave towers (§472.)* Libraries and archives (§467.)* <p>Real Estate, Rental and Leasing</p> <ul style="list-style-type: none"> Automotive rental & leasing (§457.) <p>*= Use Specific Standards in §450. Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICT INTENT: B-3 COMMERCIAL DISTRICT (cont.)

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
	<p>Transportation and Warehousing</p> <ul style="list-style-type: none"> Truck transportation (§421.422.)* Postal service (§422.)* Couriers and messengers (§422.)* Warehousing and storage (§421.422.)* <p>Information</p> <ul style="list-style-type: none"> Publishing Industries (§422.)* Motion picture & sound recording industries Satellite signal receiving antenna ≤ one meter Satellite signal receiving antenna > one meter (§427.)* <p>Finance and Insurance</p> <p>Real Estate, Rental and Leasing</p> <p>Professional, Scientific & Technical Services</p> <ul style="list-style-type: none"> Veterinary services – small animals (§410.)* <p>Management of Companies & enterprises</p> <p>Administrative & Support & Waste Services</p> <ul style="list-style-type: none"> Administrative & support services Services to buildings & dwellings <p>*= Use Specific Standards in §406. Apply</p>	<p>Educational Services (§467.)*</p> <ul style="list-style-type: none"> Colleges & Universities public and private Technical and trade schools Other schools of instruction NEC <p>Health Care and Social Assistance (§467.)*</p> <ul style="list-style-type: none"> Outpatient care centers Hospitals State licensed residential care facilities 7 to 10 individuals (§468.) (§469.)* Individual and family social services Child day care services <p>Arts, Entertainment, and Recreation</p> <ul style="list-style-type: none"> Marinas (§454.) (§455.)* Coin operated amusement devices (§466.)* Amusement & recreation industries NEC (§466.)* <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> Hotels & motels (§459.)* Eating & drinking places > 3000 ft² (§477.)* Drive-thru facilities (§462.)* <p>Other Services</p> <ul style="list-style-type: none"> Automotive repair and maintenance (464.)* Other Automotive repair and maintenance (464.)* Dry cleaning & laundry services (except coin operated) (§452.)* Religious organizations (§467.)* Parking lots and garages (§533.) <p>*= Use Specific Standards in §450. Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

DISTRICT INTENT: B-3 COMMERCIAL DISTRICT (cont.)

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
	<p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> • Offices of physicians • Offices of dentists • Offices of other health practitioners • Medical diagnostic & dental laboratories • State licensed residential care facilities ≤ (6) individuals <p>Arts, Entertainment, and Recreation</p> <ul style="list-style-type: none"> • Performing arts, spectator sports & related businesses • Theatrical producers (§422.)* • Museums, historical sites & similar institutions (§414.)* • Exercise center • Bowling centers <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> • Eating & drinking places ≤ 3000 ft² <p>Other Services</p> <ul style="list-style-type: none"> • Electronic & precision equipment repair • Personal & household goods repair • Personal care services • Funeral home & funeral services • Coin operated laundry and dry cleaners (§422.)* • All other personal services • Religious, Civic, Professional and similar services <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> • Single family dwellings (§419.)* • Accessory building, structure or use • Solar collectors • Private swimming pool (§418.)* • Yard sales (§420.)* • Public and private utility lines • Wind energy systems (§428.)* <p>*= Use Specific Standards in §406. Apply</p>	<p>Public Administration (§467.)*</p> <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> • Planned Unit Development (§606.) <p>*= Use Specific Standards in §450. Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

I-1 LIGHT INDUSTRIAL DISTRICT

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
<p>The I-1, Light Industrial District The light industrial district includes a variety of non-objectionable manufacturing, wholesaling, and warehousing uses. Industrial parks and similar type uses are appropriate.</p>	<p>Agriculture, Forestry, Fishing & Hunting</p> <ul style="list-style-type: none"> • Crop production (§408.) (§422.)* • Animal production (§409.) (§422.)* • Forestry and logging (§422.)* • Support activity for forestry (§422.)* <p>Construction (§422.)*</p> <ul style="list-style-type: none"> • Construction of buildings • Heavy construction and civil engineering • Special trade contractors <p>Manufacturing</p> <ul style="list-style-type: none"> • Printing and related support activities (§422.)* <p>Wholesale Trade (§422.)*</p> <ul style="list-style-type: none"> • Merchant wholesalers, durable goods • Merchant wholesalers, non-durable goods <p>Transportation and Warehousing (§422.)*</p> <ul style="list-style-type: none"> • Truck transportation • Postal service • Couriers and messengers • Warehousing and storage (§421.)* <p>*= Use Specific Standards in §406 Apply</p>	<p>Utilities</p> <ul style="list-style-type: none"> • Utilities (§452.)* (§467.)* <p>Manufacturing (§452.)*</p> <ul style="list-style-type: none"> • Food manufacturing • Animal slaughtering & processing • Beverage & tobacco product mfg. • Textile mills • Textile product mills • Leather & allied product mfg. • Wood product mfg. • Paper mfg. • Plate making & related services • Chemical mfg. • Non-metallic mineral product mfg. • Non-ferrous metal production & processing • Non-ferrous foundries • Fabricated metal product mfg. • Machinery mfg. • Computer & electronic product mfg. • Electrical equipment, appliance & component mfg. • Transportation equipment mfg. • Furniture & related product mfg. • Misc. mfg. <p>Wholesale Trade</p> <ul style="list-style-type: none"> • Fuel & ice dealers (458.)* <p>*= Use Specific Standards in §407 Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

I-1 LIGHT INDUSTRIAL DISTRICT (CONT.)

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
	<p>Information</p> <ul style="list-style-type: none"> • Publishing Industries (§422.)* • Satellite signal receiving antenna ≤ one meter • Satellite signal receiving antenna > one meter (§427.)* <p>Professional, Scientific & Technical Services</p> <ul style="list-style-type: none"> • Veterinary services – livestock (§410.)* • Veterinary services – small animals (§410.)* <p>Administrative & Support & Waste Services</p> <ul style="list-style-type: none"> • Administrative & support services • Services to buildings & dwellings <p>Health Care and Social Assistance</p> <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> • Eating & drinking places ≤ 3000 ft² <p>Other Services</p> <ul style="list-style-type: none"> • All other personal services <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> • Accessory building, structure or use • Solar collectors • Private swimming pool (§418.)* • Yard sales (§420.)* • Public and private utility lines • Wind energy systems (§428.)* <p>*= Use Specific Standards in §406 Apply</p>	<p>Retail Trade (§452.)*</p> <ul style="list-style-type: none"> • Home centers • Other building material dealers • Outdoor power equipment stores <p>Transportation and Warehousing</p> <ul style="list-style-type: none"> • Water transportation (§454.) (§455.)* • Support activities for transportation (§452.)* <p>Real Estate, Rental and Leasing</p> <ul style="list-style-type: none"> • Automotive rental & leasing (§457.) <p>Administrative & Support & Waste Services</p> <ul style="list-style-type: none"> • Waste management & remediation services (§452.)* <p>Arts, Entertainment, and Recreation</p> <ul style="list-style-type: none"> • Marinas (§455.)* <p>Accommodation and Food Services</p> <ul style="list-style-type: none"> • Hotels & motels (§459.)* • Eating & drinking places > 3000 ft² (§477.)* • Drive-thru facilities (§462.)* <p>Other Services</p> <ul style="list-style-type: none"> • Automotive repair and maintenance (§457.) (464.)* • Other Automotive repair and maintenance (464.)* • Commercial & industrial machinery related services (§452.)* • Dry cleaning & laundry services (except coin operated) (§452.)* <p>*= Use Specific Standards in §450 Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

I-1 LIGHT INDUSTRIAL DISTRICT (CONT.)

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
	<p>*= Use Specific Standards in §406 Apply</p>	<p>Public Administration (§467.)*</p> <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> • Planned Unit Developments (§606.) • Sexually oriented businesses (§475.)* <p>*= Use Specific Standards in §450 Apply</p>

VILLAGE OF ELK RAPIDS ZONING CODE

P - PUBLIC DISTRICT

District Intent	Permitted Uses	Use Requiring a Special Land Use Permit
<p>The P, Public District The P Zone is established to accommodate those parcels of land which are currently and are intended to remain in public trust for school, park, open space, and other purposes.</p>	<p>Information</p> <ul style="list-style-type: none"> Satellite signal receiving antenna ≤ one meter Satellite signal receiving antenna > one meter (§427.)* <p>Health Care and Social Assistance</p> <p>Arts, Entertainment, and Recreation</p> <ul style="list-style-type: none"> Museums, historical sites & similar institutions (§414.)* <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> Accessory building, structure or use Solar collectors Private swimming pool (§418.)* Public and private utility lines Wind energy systems (§428.)* <p>*= Use Specific Standards in §406 Apply</p>	<p>Transportation and Warehousing</p> <ul style="list-style-type: none"> Water transportation (§454.) (§455.)* Support activities for transportation (§452.)* <p>Educational Services (§467.)*</p> <ul style="list-style-type: none"> Schools – Private Elementary and Secondary Colleges & Universities public and private <p>Health Care and Social Assistance</p> <ul style="list-style-type: none"> Individual and family social services (§467.)* <p>Arts, Entertainment, and Recreation</p> <ul style="list-style-type: none"> Golf courses & country clubs (§465.)* Marinas (§455.)* <p>Public Administration (§467.)*</p> <p>Uses Not Elsewhere Classified (NEC)</p> <ul style="list-style-type: none"> Planned Unit Developments (§606.) <p>*= Use Specific Standards in §450 Apply</p>

(Ord. passed 3-2-15)

VILLAGE OF ELK RAPIDS ZONING CODE

§ 304. DISTRICT BOUNDARIES.

- A. The boundaries of the districts are hereby defined and established as shown on the map entitled "Official District Zoning Map, Village of Elk Rapids MI" as may be amended from time to time.
- B. If, in accordance with the provisions of this Zoning Code and of the applicable statute, amendments effecting changes made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not be considered final, and zoning permits shall not be issued, until changes have been made on the Official Zoning Map. Map changes shall be made within five normal working days after the effective date of the Zoning Code amendment. Each map change shall indicate the zoning amendment number on the map. Two copies of the Official Zoning Map shall be maintained and kept up to date, one in the Planning and Zoning Administrator's office.
(Ord. passed 3-2-15)

§ 305. INTERPRETATION OF DISTRICT BOUNDARIES.

- A. Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Official Zoning Map, the rules set forth in this section shall apply.
- B. Boundaries indicated as approximately following the streets or highways shall be considered to be such boundaries.
- C. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- D. Boundaries indicated as approximately following Village boundary lines shall be construed as following such village boundary lines.
- E. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning Map.
- F. Where a zoning district includes streams, inland lakes, or other inland bodies of water, the district boundary shall be deemed to extend to the thread of the stream or center of the lake or other body of water.

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- G. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Zoning Board of Appeals using the process described within Section 702 and Section 705 of this Code.

(Ord. passed 3-2-15)

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CHAPTER 400 – LAND USE STANDARDS

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CHAPTER 400 – LAND USE STANDARDS

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CHAPTER 400 – LAND USE STANDARDS

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VILLAGE OF ELK RAPIDS ZONING CODE

§401. PERMITTED USES.

- A. The use of land and buildings in the Village shall be as permitted in §405, District Table of Permitted Uses, of this Code. The table indicates the various land use and the zoning district within which the land use is permitted. In accordance with §403, below, the letter designation indicates the category of permission under which the land use is permitted.
(Ord. passed 3-2-15)

§402. USE OF NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM.

- A. Land use as permitted in §405, below, is as defined and classified in the U.S. Government, Executive Office of the President, Office of Management and Budget, North American Industry Classification System, 2007, as may be amended from time to time. Non-classifiable uses, Sector 99, are as defined and classified in this Code.
- B. The above referenced North American Industry Classification System is hereby incorporated by reference and becomes a part of this Zoning Code by such reference.
(Ord. passed 3-2-15)

§403. PERMISSIBLE USE DESIGNATIONS.

- A. Within §405, District Table of Permitted Use Summary, the following designations shall apply:
1. The letter "R" indicates that the use is permissible by "Right" in the indicated zoning district with the issuance of a Zoning Compliance Permit by the Planning and Zoning Administrator.
 2. The letter "C" indicates that the use is permissible by "Right" in the indicated zoning district with the issuance of a Zoning Compliance Permit by the Planning and Zoning Administrator, provided that the specific conditions for the use established in §406., below, are met.
 3. The letter "S" indicates that the use is permissible with the approval by the Village Planning Commission of a Special Use Permit in accordance with the procedures for such issuance, and further provided that the specific conditions for the use established in §450., are met.

VILLAGE OF ELK RAPIDS ZONING CODE

- B. When using the District Table of Permitted Use Summary, uses not mentioned are prohibited, as it has been established that there is not a demonstrated need for that land use within either the village or the surrounding area within the state or that there is not a location within the village where the use may be appropriately located.
(Ord. passed 3-16-15)

§404. PLANNED UNIT DEVELOPMENTS.

- A. Planned Unit Developments are overlay zones which may be approved by the Village Council in accordance with the provisions of §606., and in accordance with the procedures and requirements of the state, in the Michigan Zoning enabling Act, MCL 125.3101, et seq, 110 of 2006, as amended, 3503. When approved by the Village Council, uses permitted in a Planned Unit Development may include all of the permitted uses indicated in §405., below.
(Ord. passed 3-2-15)

VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 11-Agriculture, Forestry, Fishing, and Hunting											
11100	Crop Production								C		(§408) (§422)
11191	Medical Marihuana Cultivation Facility								C		(§429)
11200	Animal Production								C		(§409) (§422)
11300	Forestry and Logging							C	C		(§422)
11400	Fishing						R	R		R	
11500	Support Activities for Agriculture & Forestry							C	C		(§422)
Sector 22-Utilities											
22100	Utilities							S	S	S	(§452) (§467)
Sector 23-Construction											
23600	Construction of Buildings								C		(§422)
23700	Heavy & Civil Engineering Construction								C		(§422)
23800	Specialty Trade Contractors							C	C		(§422)
Sector 31-33 -Manufacturing											
31100	Food Manufacturing								S		(§452)
31200	Beverage & Tobacco Product Mfg.								S		(§452)
31300	Textile Mills								S		(§452)
31500	Apparel Manufacturing								S		(§452)
31600	Leather & Allied Product manufacturing								S		(§452)
32100	Wood Product Manufacturing								S		(§452)

R=Use allowed by Right

C=Use allowed by Right with Conditions

S=Use allowed with Special Use Permit

VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY (cont.)

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 31-33 –Manufacturing (cont.)											
32200	Paper Manufacturing								S		(§452)
32300	Printing & Related Support Activities					C	C	C	C		(§422)
32310	Plate Making & Related Services								S		(§452)
32500	Chemical Manufacturing								S		(§452)
32600	Plastics & Rubber Products Mfg.								S		(§452)
32700	Non-Metallic Mineral Product Mfg.								S		(§452)
33120	Steel Product Mfg. (purchased material)								S		(§452)
33130	Aluminum Production & Processing								S		(§452)
33142	Copper Rolling, Drawing, & Extruding								S		(§452)
33149	Non-Ferrous Metal Rolling, Drawing, & Extruding								S		(§452)
33200	Fabricated Metal Product Mfg.								S		(§452)
33300	Machinery Manufacturing								S		(§452)
33400	Computer & Electric Product Mfg.								S		(§452)
33500	Electrical Equipment, Appliances, & Component Mfg.								S		(§452)
33600	Transportation Equipment Mfg.								S		(§452)
33700	Furniture & Related Product Mfg.								S		(§452)
33900	Miscellaneous Manufacturing								S		(§452)
Sector 42-Wholesale Trade											
42300	Merchant Wholesalers, Durable Goods							C	C		(§422)
42400	Merchant Wholesalers, Non-Durable Goods							C	C		(§422)
42490	Fuel and Ice Dealers								S		(§452)

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VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY (cont.)

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 44-45 – Retail Trade											
44110	Automobile Dealers							S	S		(\$457) (\$458)
44120	Other Motor Vehicle Dealers							S	S		(\$457) (\$458)
44130	Automotive Parts, Accessories, & Tire Stores							R	R		
44200	Furniture & Home Furnishing Stores						R	R	R		
44300	Electronics & Appliance Stores						R	R	R		
44410	Building Material & Supplies Dealers							S	S		(\$452)
44411	Home Centers							S	S		(\$452)
44412	Paint & Wallpaper Stores						R	R	R		
44413	Hardware Stores						R	R	R		
44419	Other Building Material Dealers							S	S		(\$452)
44420	Lawn & Garden Equipment Supply Stores							S	S		(\$452)
44421	Outdoor Power Equipment Stores							S	S		(\$452)
44422	Nursery & Garden Supply Stores						C	C	C		(\$411)
44500	Food & Beverage Stores					R	R	R			
44600	Health & Personal Care Stores					R	R	R	R		
44700	Gasoline Stations							S			(\$458)
44800	Clothing & Clothing Accessory Stores					R	R	R	R		
45100	Sporting Goods, Hobby, Book & Music Stores					R	R	R	R		
45200	General Merchandise Stores ≤ 3000 ft ²					R	R	R	R		
45290	General Merchandise Stores ≥ 3000 ft ²						S	S	S		(\$476)

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VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY (cont.)

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 44-45 – Retail Trade (cont.)											
45299	Planned Shopping Center							S			(§473)
45300	Misc. Retail Stores ≤ 3000 ft ²					R	R	R	R		
45390	Misc. Retail Stores ≥ 3000 ft ²						S	S	S		(§476)
45393	Manufactured (Mobile) Home Dealers							C	C		(§412) (§422)
45399	Fireworks, Retail					R	R	R	R		
45400	Non-Store Retailers								S		(§452)
45430	Fuel and Ice Dealers								S		(§458)
Sector 48-49 – Transportation & Warehousing											
48300	Water Transportation					S	S	S	S	S	(§453) (§454)
48400	Truck Transportation							C	C		(§422) (§423)
48500	Transit & Ground Passenger Transportation							C	C		(§423)
48600	Pipeline Transportation	R	R	R	R	R	R	R	R	R	
48710	Scenic & Site seeing Transportation, Land							C	C		(§423)
48720	Scenic & Site seeing Transportation, Water						S	S		S	(§453)
48800	Support Activities for Transportation						S	S	S	S	(§452)
49100	Postal Service						C	C	C		(§422)
49200	Couriers & Messengers						C	C	C		(§422)
49300	Warehousing & Storage							C	C		(§421) (§422)
45200	General Merchandise Stores ≤ 3000 ft ²					R	R	R	R		
45290	General Merchandise Stores ≥ 3000 ft ²						S	S	S		(§476)

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VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY (cont.)

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 51 – Information											
51100	Publishing Industries					C	C	C	C		(§422)
51200	Motion Picture & Sound Recording Industries						R	R			
51500	Broadcasting (except internet)							R	R		
51710	Wired Telecommunication Carriers						R	R	R		
51720	Wireless telecommunication Carriers						R	R	R		
51740	Satellite Signal Receiving Antenna ≤ one meter	S	R	R	R	R	R	R	R	R	
51790	Satellite Signal Receiving Antenna > one meter	C	C	C	C	C	C	C	C	C	(§427)
51791	Radio, Television, & Microwave Towers							S	S		(§472)
51800	Data Processing, Hosting, & Related Services					R	R	R	R		
51910	Other Information Services							R	R		
51912	Libraries and Archives					S	S	S		S	(§467)
Sector 52 – Finance											
52000	Finance and Insurance Services					R	R	R	R		
Sector 53 – Real Estate, Rental, and Leasing											
53100	Real Estate					R	R	R	R		
53200	Rental and Leasing					R	R	R	R		
53210	Automotive Equipment Rental & Leasing							S	S		(§457)

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VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY (cont.)

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 54 – Professional, Scientific, & Technical Services											
54100	Professional, Scientific, & Technical Services					R	R	R			
54194	Veterinary Services – Small Animals					C		C	C		(§410)
54199	Veterinary Services – Livestock								C		(§410)
Sector 55 – Management of Companies & Enterprises											
55100	Management of Companies & Enterprises					R	R	R	R		
Sector 56 – Administrative & Support Services											
56100	Administrative & Support Services					R	R	R	R		
56170	Services to Buildings & Dwellings							R	R		
56200	Waste Management & Remediation Services								S		(§452)
Sector 61 – Educational Services											
61110	Private Elementary & Secondary Schools	S	S	S	S	S				S	(§467)
61120	Junior Colleges	S	S	S	S	S	S	S		S	(§467)
61130	Colleges and Universities	S	S	S	S	S	S	S		S	(§467)
61140	Business Schools, Computer & Management Training	S	S	S	S	S	S	S		S	(§467)
61150	Technical and Trade Schools					S	S	S			(§467)
61160	Other Schools and Instruction					S	S	S			(§467)
61170	Educational Support Services					R	R	R			
Sector 62 – Health Care and Social Assistance											
62110	Offices of Physicians					R	R	R	R		
62120	Offices of Dentists					R	R	R	R		
62130	Offices of Other Health Practitioners					R	R	R	R		

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VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY (cont.)

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 62 – Health Care and Social Assistance (cont.)											
62140	Out Patient Care Centers							S	S		(\$467)
62150	Medical, Diagnostic, & Dental Laboratories					R	R	R	R		
62160	Home Health Care Services					R	R	R	R		
62190	Other Ambulatory Health Care Services							R	R		
62200	Hospitals							S	S		(\$467)
62300	Nursing & Residential Care Facilities	S	S	S	S	S	S	S	S	S	(\$467) (\$468) (\$469)
62330	Family Day Care Home	R	R	R	R	R	R	R			
62410	Individual & Family Services	S	S	S	S	S	S	S	S	S	(\$467) (\$468) (\$469)
62440	Child Day Care Services					S	S	S			(\$467) (\$468) (\$469)
62441	Baby Sitting Services	R	R	R	R	R	R	R	R	R	
Sector 71 – Arts, Entertainment and Recreation											
71100	Performing Arts, Spectator Sports & Related Industries						R	R			
71130	Promoters of Performing Arts & Similar Events					C	C	C	C		(\$422)
71200	Museums, Historical Sites & Similar Events	C	C	C	C	C	C	C	C	C	(\$414)
71391	Golf Courses & Country Clubs	S	S	S	S						(\$465)
71393	Marinas						S	S	S	S	(\$454) (\$455)
71394	Fitness, Recreation & Sports Centers					C	C	C	C		(\$422)
71395	Bowling Centers							R	R		
71390	Coin Operated Amusement Devices						S	S	S		(\$466)
71399	Other Amusement & Recreation Industries							S	S		(\$452)

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VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY (cont.)

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 72 – Accommodation and Food Services											
72111	Hotels and Motels							S			(§459)
72119	Bed & Breakfast Establishments	C	C	C		C		C			(§424)
72199	Inns Within Central Business District						S				(§474)
72120	RV Parks & Recreational Campgrounds				S						(§461)
72130	Rooming & Boarding Houses	S	S	S	S						(§460)
72139	Fraternity & Similar Organization Housing	S	S	S	S						(§460)
72200	Eating & Drinking Places ≤ 3000 ft ²						R	R	R		
72210	Eating & Drinking Places > 3000 ft ²						S	S	S		(§477)
72230	Drive Thru Facilities						S	S	S		(§462)
Sector 81 – Other Services											
81110	Automotive Repair & Maintenance							S	S		(§457) (§458) (§464)
81120	Electronic & Precision Equipment Repair & Maintenance					R	R	R	R		
81130	Commercial & Industrial Machinery & Equipment Repair and Maintenance								S		(§452)
81140	Personal & household Goods Repair & Maintenance					R	R	R	R		
81210	Personal Care Services					R	R	R	R		
81220	Funeral Home & Funeral Services						R	R	R		
81231	Coin Operated Laundry & Dry Cleaners					C	C	C	C		(§422)
81232	Dry Cleaning & Laundry Services (except coin operated)						S	S	S		(§452)
81290	Other Personal Services						R	R	R		

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VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY (cont.)

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 81 – Other Services (cont.)											
81293	Parking Lots & Garages					C	C	C	C		(§463)
81300	Religious, Civic, Professional, & Similar Organizations	S	S	S	S	R	R	R			(§467)
81410	Private Households	R	R	R	R	C	C	C			(§419)
Sector 97 – Public Administration											
92100	Public Administration	S	S	S	S	S	S	S	S	S	(§467)
Sector 99 – Uses Not Elsewhere Classified (N.E.C.)											
99110	Single Family Dwelling	R	R	R	R	C	C	C			(§419)
99120	Two Family Dwelling	R	R		R		C				(§419)
99130	Multi-Family Dwelling				S						(§470)
99140	Short Term Rental	C	C	C	C						(§426)
99210	Mobile Home Park				S						(§471)
99220	Mobile Home Subdivision				S						(§533)
99240	Model Dwelling Unit	C	C	C	C						(§415)
99250	Accessory Dwelling Unit	C	C	C	C						(§431)
99310	Accessory Building, Structure or Use	R	R	R	R	C	C	C	C		(§419)
99320	Home Occupation	C	C	C	C						(§425)
99330	Storage of Recreational Vehicles & Watercraft	C	C	C	C						(§416)
99410	Private Swimming Pool	C	C	C	C	C	C	C	C		(§418)
99420	Yard Sales	C	C	C	C	C	C	C	C		(§420)

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VILLAGE OF ELK RAPIDS ZONING CODE

§405 DISTRICT TABLE OF PERMITTED USE SUMMARY (cont.)

PRINCIPAL LAND USE ACTIVITY		R-1	R-2	R-3	RM	B-1	B-2	B-3	I-1	P	OTHER DEVELOPMENT STANDARDS
Sector 99 – Uses Not Elsewhere Classified (cont.)											
99510	Public & Private Utilities	R	R	R	R	R	R	R	R	R	
99520	Solar Collectors	R	R	R	R	R	R	R	R	R	
99530	Wind Energy Systems	C	C	C	C	C	C	C	C	C	(§428)
99540	Planned Unit Developments	S	S	S	S	S	S	S	S	S	(§606)
99910	Sexually Oriented Business								S		(§475)

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S=Use allowed with Special Use Permit

(Ord. passed 3-2-15)

VILLAGE OF ELK RAPIDS ZONING CODE

§406. CONDITIONAL USE STANDARDS.

§407. INTENT AND PURPOSE.

- A. The Village of Elk Rapids has determined that certain categories of land use or activity that, due to their effects on the public health, safety, and welfare, warrant supplemental regulation. -§405 sets forth the zoning districts where the land uses are permitted, provided the land uses meet the standards provided in this Chapter. The standards for those conditions are as set forth below.

(Ord. passed 3-2-15)

§408. AGRICULTURE PRODUCTION - CROPS.

- A. Lands within the corporate limits of the Village may be used for commercial crop production, provided that in residential zones, production is restricted to the use of open fields and that no production involving the use of fertilizers or pesticides is conducted within 100 feet of another property utilized for residential purposes. Fields of one acre or less are not subject to this regulation.

(Ord. passed 3-2-15)

§409. AGRICULTURE PRODUCTION - LIVESTOCK.

- A. Livestock uses shall be prohibited except as expressly permitted herein. Except as otherwise provided in Section 417, livestock uses are permitted only to the extent the livestock use is in compliance with a Generally Accepted Agricultural Management Practices (GAAMP) and the GAAMP does not permit conflicting or more restrictive local regulation, as adopted by the authorized state agency pursuant to its authority under the Michigan Right to Farm Act, Act 93 of the Public Acts of 1981, as amended, being M.C.L.A. §§ 286.471 through 286.474.

(Ord. passed 3-16-15)

§410. VETERINARY SERVICES.

- A. Veterinary services may be allowed, provided that all operations, particularly the boarding of animals, are conducted within a totally enclosed building and are appropriately supervised at all times. The on-site treatment of large animals shall be prohibited in the B-1 District.

(Ord. passed 3-2-15)

§411. RETAIL NURSERIES AND GARDEN STORES.

- A. Outdoor sales are allowed, provided that the placement of plant materials, equipment, and other merchandise shall not be in the required yard setbacks or on required parking areas; that chemical fertilizers, sprays and other chemical materials shall be displayed and sold from within

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totally enclosed buildings; and that adequate parking shall be provided which meets the standards of §501.AD., of this Code.

(Ord. passed 3-2-15)

§412. MOBILE HOME DEALERS.

- A. Mobile homes stored and or displayed for eventual sale shall be located so as to observe the required front, side, and rear yard setback requirements of the lot on which they are located. Mobile homes displayed along street frontages shall be on planned display sites which are landscaped in a manner which is aesthetically compatible with the general surrounding area. Such units shall also be provided with temporary skirting. Units shall not be stored which are not arranged or available for showing to the public for sale purposes.

(Ord. passed 3-2-15)

§413. MOBILE HOMES IN RESIDENTIAL DISTRICTS.

- A. It is the purpose of this section to establish reasonable requirements for mobile homes located outside of licensed mobile home parks to assure that the mobile home, when located upon the particular site, would compare favorably to other housing in such considerations as aesthetics, insulation, adequacy of plumbing, size of living space, protection from wind storm damage, quality of manufacture, solidity and security of foundation, obscurity of the wheels and chassis, and community standard size lot.
- B. In the R-1, R-2, R-3, RM-L and RM-H districts, a mobile home must also comply with the minimum dimensional requirements established in §501., and §504.
- C. Mobile Homes, as defined in Chapter 200, of this Code, shall be permitted in the Zoning Districts as cited in §405., above, subject to the following provisions and requirements:
 - 1. Qualifying Conditions:
 - a. Each mobile home shall bear a label required by 24 CFR 3232.362(c)(2) of the Federal Mobile Home Procedural and Enforcement Regulations.
 - b. Each mobile home shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
 - c. Within ten days following installation, all towing mechanisms shall be removed from each mobile home. No mobile home shall have any exposed undercarriage or chassis.

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- d. Each mobile home shall have a permanent perimeter wall of conventional building materials which shall prevent the entrance of rodents, control heat loss, and contribute to aesthetic compatibility with surrounding structures.
- e. All construction and all plumbing, electrical apparatus, and insulation within and connected to each mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as from time to time amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- f. Any materials that are generally acceptable for housing built on the site may be used for exterior finish if applied in such a manner as to be similar in appearance. However, reflection from such exterior shall not be greater than from siding coated with clean white gloss exterior enamel.
- g. Each mobile dwelling shall be aesthetically compatible in design and appearance with other residences, particularly with regard to foundation treatment, siding and roofing materials and perimeter walls. Compatible materials such as siding, screen walls, and the like may be added to assure aesthetic compatibility with other structures.

(Ord. passed 3-2-15)

§414. MUSEUMS; HISTORICAL SITES; BOTANICAL AND ZOOLOGICAL GARDENS; AND SIMILAR INSTITUTIONS.

- A. All operations shall be located in such a manner that they are adequately buffered to mitigate any adverse impacts which they may have on surrounding existing or potential future development.

(Ord. passed 3-2-15)

§415. MODEL DWELLING UNITS.

- A. Model dwelling units may be allowed, provided that the dwelling units, including landscaping, are completed as if it were to be occupied, is located so as not to create any unsafe conditions, noise, light, traffic, or other nuisance to neighboring residential uses, is used for the purpose of selling homes within the immediate subdivision or subdivisions, is open only during normal real estate sales hours, and provided that the duration of use does not exceed one year unless an extension of time is approved by the Planning Commission after a determination that reasonable and continuous efforts have been made to sell the properties during the usual one

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year period. One sign shall be allowed, meeting the specifications of §529., Signage, of this Code. There shall be no banners, flags, lighting, or other devices used to attract attention or set the model apart from other residential structures in the development. (Ord. passed xx-xx-xx)
(Ord. passed 3-2-15)

§416 STORAGE OF RECREATIONAL VEHICLES AND WATERCRAFT.

- A. Outdoor storage of watercraft, travel trailer, camper or other recreational vehicle is permitted in accordance with §518., of this Code.
(Ord. passed 3-2-15)

§417. KEEPING OF DOMESTIC PETS.

- A. The number of customary domestic pets such as cats and dogs maintained and their daily care on any property within the Village shall meet the normal and customary practices recommended by typical society standards.
- B. The keeping of riding horses or goats for the use of residents of the property is allowed, provided that the parcel of land shall contain not less than two and one-half acres.
- C. The keeping of livestock, including large domestic animals such as cows and pigs and of exotic animals shall be prohibited except as expressly permitted herein.
- D. The keeping of rabbits, chickens, and small animals and poultry similar to rabbits and chickens, for personal use is allowed subject to the following:
 - 1. A maximum of 6 animals may be kept per parcel. Animals under four months old are not counted.
 - 2. Rabbits or chickens shall be confined/housed within a fenced area or enclosure in the rear yard.
 - 3. Enclosures shall be located at least 25 feet from any dwelling on a neighboring parcel and 10 feet from the rear and side property line.
 - 4. No rabbits or chickens shall be permitted on parcels with more than one dwelling unit.
 - 5. No storage or unusual accumulation of manure, odor or dust-producing materials shall be permitted within 100 feet of any property line.
 - 6. With the exception of sub-section D.3., above, and dog houses, no building for storage or housing of animals shall be permitted within 100 feet of any property line.

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7. Chickens shall be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as it relates to Laying Chickens, as amended, except as otherwise provided in this ordinance.
8. No animal may kept under this section that generates noise that the Zoning Administrator determines creates noise that interferes with reasonable use and enjoyment of a neighboring parcel of land. Roosters are prohibited.

(Ord. passed 3-2-15)

§418. PRIVATE SWIMMING POOLS.

- A. Private swimming pools shall be permitted as an accessory use, subject to the restrictions set forth in this section.
- B. Private pools shall meet required yard setbacks.
- C. There shall be a minimum distance of not less than ten feet between the adjoining property line and the outside of the pool wall, including attachments to the pool.
- D. There shall be a distance of not less than six feet between the outside pool wall, and any building located on the same lot.
- E. For the protection of the general public, swimming pools shall be completely enclosed by a fence not less than four feet in height containing gates of a self-closing or latching type. Gates shall be capable of being securely locked when the pool is not in use.

(Ord. passed 3-2-15)

§419. LIMITED ACCESSORY RESIDENTIAL USES.

- A. Under certain circumstances it is desirable to include some residential accommodation as an integral part of a commercial development. Limited residential use is allowed under the following conditions:
 1. Residential uses within the B-2, Central Business District shall be prohibited on the first floor.
 2. Residential units shall have entrances distinctly separate from commercial uses and shall have separate metering services for water, electric, gas, and the like.

(Ord. passed 3-2-15)

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§420. YARD SALES.

- A. Yard sales or garage sales may be permitted, provided that the sales are not conducted on the same lot for more than three days, whether consecutive or not, during any 90-day period, and provided further that the sales are conducted only on a lot upon which a principal use is located. (Ord. passed 3-2-15)

§421. WAREHOUSING WITHIN THE CENTRAL BUSINESS DISTRICT.

- A. Warehousing of materials related to the on-site approved retail activity shall be limited to less than 50% of the usable internal floor space. Within the B-1 and B-2 Districts, there shall be no external storage of materials. Within the B-3 District, outdoor storage of the retail items shall be placed within an enclosure or screened by a six-foot high privacy fence and shall not be located in the required setbacks or parking area. (Ord. passed 3-2-15)

§422. PRODUCTION SERVICES, CONSTRUCTION, MANUFACTURING, WAREHOUSING AND INDUSTRIAL REQUIREMENTS.

- A. Activities listed in this section shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors, provided that it is located more than 300 feet from any other district. All outdoor storage shall be effectively screened by a solid, uniformly finished fence with entrance and exit gates six feet in height, or with natural landscape plant materials as described in §528., Landscaping, of this Code. Such storage shall not be deemed to include the parking of licensed motor vehicles under one and one-half tons rated capacity.
- B. Noise emanating from a use in this district shall not exceed the level of ordinary conversation at the boundaries of the lot. Noise may equal to but shall not exceed average street traffic noise.
- C. Uses permitted in Districts under these requirements shall not:
 - 1. Emit obnoxious, toxic, or corrosive fumes or gases which are deleterious to the public health, safety, or general welfare, except for those produced by internal combustion engines under designed operating conditions;
 - 2. Emit smoke, odorous gases, or other odorous matter in such quantities as to be offensive at or beyond any boundary of the use of the parcel;
 - 3. Discharge into the air dust or other particulate matter created by any industrial operation or emanating from any products stored prior or subsequent to processing;

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4. Produce heat or glare humanly perceptible at or beyond the lot boundaries;
 5. Discharge radioactive materials that exceed quantities established by the U.S. Bureau of Standards; or
 6. Include in the manufacturing process any production or storage of any material designed for use as an explosive or use any such material in production.
- D. Yards in Districts under these requirements shall conform to the following standards:
1. Except for landscape improvements and necessary drives and walks, the front yard shall remain clear and shall not be used for parking, loading, or accessory structures. Side and rear yards, except for a strip along the lot boundary ten feet in width, may be used for parking and loading but not for storage.
 2. Subject to the provisions of § 520., of this Code, which shall prevail, when the side or rear yard areas abut land within a residential district and when such yard areas are to be used for parking, loading, unloading, or servicing, then such side and rear yard areas shall be effectively screened by a solid, uniformly finished wall or fence. The height and extent of such wall or fence shall be determined by the Planning and Zoning Administrator on the basis of proposed side or rear yard usage.
- (Ord. passed 3-2-15)

§423. LOCAL INTERURBAN PASSENGER TRANSIT.

- A. All such facilities shall be located on a Major Thoroughfare as defined in Chapter 200 of this Code and all ingress and egress to the site shall be from the thoroughfare.
 - B. All such facilities, including parking and passenger loading areas and equipment parking areas, shall observe the required yard setbacks for the zone in which the facility is located. Loading areas where equipment may be located with engines idling shall be located a minimum of 200 feet from any residential use. Off-street parking shall be provided for all patrons, employees, equipment, and other vehicles associated with the operation.
- (Ord. passed 3-2-15)

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§424. BED AND BREAKFAST ESTABLISHMENTS.

- A. It is the intent of this section to establish the following standards for Bed and Breakfast Establishments and to assure that:
 - 1. The property is suitable for transient lodging facilities, both the use and character of the lot is compatible with others in the same residential district, there will be no discernible increase in traffic, and the appearance of the district will not be substantially altered.
 - 2. Residential lands shall not be subject to increased trespass.
 - 3. The impact of the establishment is no greater than that of a private home with house guests.
 - 4. Rental of snowmobiles, ATV's or similar vehicles, boats, and other marine equipment in conjunction with the operation of the establishment shall be prohibited.
- B. The residence at all times complies with the definition of a Bed and Breakfast Establishment as defined in Chapter 200., of this Code.
- C. The residence is the principal dwelling unit on the property and is owner-occupied at all times, and the character of that dwelling in terms of structure, appearance, or traffic generation is not changed by this use.
- D. The rooms utilized for guest sleeping are a part of the primary residential use, and are limited to a maximum number of four.
- E. Meal service, provided as part of guest room charges and only to registered guests of the establishment, shall be limited to and during normal customary breakfast hours.
- F. Off-street parking shall be provided in accordance with §530., of this Code.
- G. The residence has at least two exits to the outdoors.
- H. The rental sleeping rooms shall have a minimum size of 100 square feet for each two occupants, with an additional 30 square feet for each additional occupant, to a maximum of four occupants per room.
- I. The size and placement of signs shall be allowed as for a Home Occupation, as regulated by this §529., of this Code.

(Ord. passed 3-2-15)

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§425. HOME OCCUPATIONS.

- A. Home Occupations, as defined in Chapter 200 of this Code, are permitted in residential Dwelling Units when carried on by the occupant within the principal building, provided that no more than one-fourth of the floor area of one story of the dwelling is devoted to the home occupation, and furthermore, that no outdoor activities are carried on in connection with the use.
- B. A professional office for occupancy by not more than one physician, dentist, attorney, architect, engineer, or similar recognized professional practitioner, with no more than one full-time equivalent employee, is permitted within a residential structure.
- C. Home Occupation uses are intended to provide reasonable flexibility in the application of this Code, but such Home Occupations shall not be permitted if the essential character of a lot or structure within a residential district, in terms of use or appearance, will be changed in the slightest degree by the occurrence of such occupations or activities.

(Ord. passed 3-2-15)

§426. SHORT TERM RENTAL.

- A. It is the intent of this section to provide for Short Term Rentals in all residential zoning districts, exclusive of Bed and Breakfast Establishments, Boarding Residences, and Hotels and Motels.
- B. Short Term Rentals of single-family residences are permitted in all residential districts without payment of fee.
- C. Short Term Rental includes rental periods of 27 days or fewer. Rental of a residence for fewer than 14 days annually shall not be considered a Short Term Rental.

(Ord. passed 3-2-15)

§427. SATELLITE SIGNAL RECEIVING ANTENNA.

- A. Ground mounted satellite signal receiving devices:
 - 1. That exceeds a height of 12 feet above the highest point of the roofline of the principal structure, require a Conditional Use Permit approved by the Planning and Zoning Administrator.
 - 2. Shall be designed and constructed to withstand a wind force of 85 miles per hour without the use of supporting guy wires.

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3. Shall comply fully with the National Electric Code (NEC) as may be amended as well as the codes and standards of other governmental or other entities having jurisdiction over the installation and operation of these devices.
 4. When applicable, shall maintain a minimum ten feet separation from existing local utility company's overhead transmission/utility lines, and shall not cause interference with the installation or signal of the existing overhead utility lines.
 5. Shall not be erected within established setback requirements unless the owner or contractor performing the installation provides documented evidence to the Planning and Zoning Administrator that it is the only location within the property boundary where a signal can be received.
 6. Shall contain no sign, name, message, symbol or other graphic advertising representation attached or mounted to the antenna or any antenna support device. This section shall not preclude safety related warning signs required by any entity noted above.
- B. Structure mounted satellite signal receiving devices:
1. That exceeds a height of 12 feet above the highest point of the roofline of the principal structure, requires a Conditional Use Permit approved by the Zoning Administrator.
 2. Shall not be mounted upon or attached to appurtenances of the principal structure, such as fire escapes, windows or doorways that may be used for egress in case of emergency.
 3. Shall be designed and constructed to withstand a wind force of 85 miles per hour without the use of supporting guy wires.
 4. Shall comply fully with the National Electric Code (NEC) as may be amended as well as the codes and standards of other governmental or other entities having jurisdiction over the installation and operation of these devices.
 5. When applicable, shall maintain a minimum ten feet separation from existing local utility company's overhead transmission/utility lines, and shall not cause interference with the installation or signal of the existing overhead utility lines.
 6. Shall contain no sign, name, message, symbol or other graphic advertising representation attached or mounted to the antenna or any antenna support device. This section shall not preclude safety related warning signs required by other jurisdictions as noted above.
- (Ord. passed 3-2-15)

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§428. WIND ENERGY SYSTEMS.

- A. This section is intended to provide reasonable standards for the use of a Wind Energy System (WES) which would allow electrical power consumers to supplement or replace their use of utility-provided electrical power without creating negative impacts to adjacent properties or the public. The purpose of this Section is to establish regulations for the location, installation and operation of a Wind Energy System (WES). Among other goals, the following regulations are intended:
1. To promote the safe, effective and efficient use of a WES to produce electricity and reduce the consumption of fossil fuels.
 2. To preserve and protect public health, safety, welfare and quality of life by minimizing the potential adverse impacts of a WES.
 3. To establish standards and quantifiable procedures to direct the site location, engineering, installation, maintenance and decommissioning of a WES.
- B. Definitions: See Chapter 200 of this Code.
- C. Applicability: This Section applies to each WES proposed for construction after the effective date of this ordinance. Each WES constructed prior to the effective date of the ordinance shall not be required to meet the standards of this Section; however, any physical modification to an existing WES that alters in any way, the size, type, equipment or location shall require approval per the standards of this Section.
- D. Principal Uses Permitted:
1. Temporary Uses: Anemometers are permitted in all zoning districts as a temporary use, subject to the provisions of this Subsection.
 - a. The construction, installation or modification of an Anemometer shall require a building permit;
 - b. Anemometers must conform to all applicable local, state and federal safety, construction, environmental, electrical, communications and FAA requirements;
 - c. Anemometers are subject to the requirements of this Section for Total Height, setbacks, separation, location and safety;
 - d. An Anemometer shall not be located on a site for more than 13 months when testing for SSM-WES or STM-WES installation potential.

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2. Permitted Uses: SSM-WES's and STM-WES's are a permitted use in all zoning districts, subject to the following:
- a. SSM-WESs and STM-WES's must receive a building permit prior to construction, installation, relocation or modification. The Owner/Applicant or Operator must apply for and receive the building permit.
 - b. All SSM-WES's and STM-WES's shall be subject to the following minimum requirements:
 - "Upwind Turbines" shall be required unless otherwise approved by the Planning and Zoning Administrator based on technical specifications and site-specific information.
 - Visual Appearance:
 - ✓ SSM-WESs and STM-WESs, including accessory buildings and related structures, shall be a non-reflective, non-obtrusive color, such as white, gray or black.
 - ✓ The appearance of the WES and all accessory structures shall be maintained throughout the life of the unit.
 - ✓ Exterior lighting of a Tower, Rotor blades and Nacelle shall not be allowed.
 - ✓ SSM-WESs and STM-WESs may not contain commercial signage, banners, flags or advertising logos, except for the identification of the turbine manufacturer and unit specifications for regulatory purposes.
 - c. Ground Clearance: The lowest extension of any rotor blade or other exposed moving component of an SSM-WES or STM-WES shall be at least 15 feet above the ground, as measured from the highest point of grade within 30 feet of the base of the WES. In addition, the lowest extension of any rotor blade or other exposed moving component of an SSM-WES or STM-WES shall be at least 15 feet above any outdoor areas intended for human use that are located below the WES. (e.g. balconies, etc.)
 - d. Noise Control: The noise produced by a SSM-WES or STM-WES may not exceed 45 dB(A) as measured at any property line on which a WES is located.
 - e. Vibration: An SSM-WES or STM-WES shall not produce vibrations that are perceptible to humans beyond any property line upon which a WES is located.

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- f. Wire Supports: Guy wires or similar apparatus shall not be allowed as part of an SSM-WES or STM-WES installation.
 - g. SSM-WES Setbacks: A SSM-WES shall be setback a minimum of 15 feet from any property line, public right-of-way, public easement or overhead utility lines. If the SSM-WES is affixed by any extension to a structure's walls, roof or other elevated surface, then the setback from property lines, public rights-of-way, public easements or overhead utility lines shall be measured from the furthest outward extension of moving WES components.
 - h. SSM-WES Separation Distances: If more than one SSM-WES is installed on a property, then a distance equal to the mounted height, that being the distance from the point of attachment to the highest point of the rotor, of the adjacent SSM-WES must be maintained between the bases of each SSM-WES.
 - i. STM-WES Setbacks:
 - On a property containing occupied buildings, STM-WESs shall only be located in the rear yard.
 - A STM-WES shall be setback a minimum of 20 feet from all Occupied Buildings on the subject property. This setback will be measured from the base of the Tower.
 - A minimum setback equal to the Total Height of the STM-WES shall be required to any property line, public right-of-way, public easement or overhead utility lines. This setback will be measured from the base of the Tower. This setback may be reduced if the applicant provides a registered engineer's certification that the STM-WES is designed to collapse, fall, curl or bend within a distance less than the Total Height of the STM-WES.
 - j. Not more than one STM-WES shall be installed on a property.
- E. Permit Application and Review Procedure: SSM-WES'S and STM-WES'S require an application and review by the Planning and Zoning Administrator In accordance with §604., of this Code. In addition, the Owner/Applicant of the SSM-WES AND STM-WES shall provide the following:
- 1. Product-specific technical information from the manufacturer of the SSM-WES or STM-WES. This information shall include the proposed Total Height and type of WES,

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maximum noise output in Decibels, total rated generating capacity, product dimensions, Rotor blade diameter and a detail of accessory structures.

2. Documented compliance with the noise and vibration generation requirements set forth in this Section.
3. Documented compliance with applicable local, state and federal regulations including, but not limited to, public safety, construction, environmental, electrical and communication requirements.
4. Documented evidence that the utility company has been informed of, and approved, the owner/applicant's intent to install an interconnected, WES. Off-grid systems shall be exempt from this requirement.
5. A narrative that explains the proposed methods that will be used to perform maintenance on the WES(s) in compliance with the manufacturer's recommendations and requirements.
6. A narrative that explains how the WES will be tested after installation for compliance with the noise and vibration regulations of this Section.

F. Safety Requirements:

1. If the SSM-WES or STM-WES is connected to a public utility system for Net Metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's current service regulations that meet federal, state and industry standards applicable to wind power generation facilities. Any such connection shall be inspected and approved by the appropriate utility company.
2. The SSM-WES or STM-WES shall be equipped with an automatic braking, governing or feathering system in order to prevent uncontrolled rotation, over-speeding or excessive pressure on the WES.
3. A clearly visible warning sign regarding voltage shall be placed at the base of the WES.
4. The structural integrity of the WES shall conform to the design standards of the International Electrical Commission; specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-2 "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.

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- G. Signal Interference: The SSM-WES or STM-WES shall not interfere with communication systems, such as, but not limited to, radio, telephone, television, satellite or emergency services communication systems.
- H. Decommissioning:
1. The SSM-WES or SST-WES Owner/Applicant shall complete Decommissioning within 6 months after the end of the WES's useful life. The term "end of useful life" is defined as zero electricity generation for a period of 12 consecutive months from a particular WES.
 2. All Decommissioning expenses are the responsibility of the Owner/Applicant.
 3. The Planning and Zoning Administrator may grant an extension of the Decommissioning period of up to one calendar year based upon request of the Owner/Applicant.
 4. If the SSM-WES or STM-WES Owner/Applicant fails to complete the act of Decommissioning within the period described in this Section, the SSM-WES or STM-WES shall thereafter be deemed a public nuisance and subject to abatement as provided by law.
 5. For STM-WESs, following removal of all items noted in (e) above, the site shall be graded and stabilized to prevent soil erosion in a manner consistent with the post-WES use of the property.
- I. Public Noise Complaints: Should any person living within 150 feet of the WES believe that the SSM-WES or STM-WES is not in compliance with the noise requirements of this Section, the administrative enforcement procedure for filing a complaint shall be as follows:
1. The complainant shall notify the Village of Elk Rapids Planning and Zoning Administrator in writing regarding the noise level complained of, being as specific as possible regarding the circumstances surrounding and supporting the allegation of non-compliance.
 2. The Planning and Zoning Administrator shall coordinate with the Police Department to investigate and evaluate the complaint, using the specifics of the complaint as guidance, to determine the actual WES Decibel level for compliance with the standards of this Section. Within seven (7) business days, the Planning and Zoning Administrator shall mail a report to the complainant and the WES Operator setting forth the results of the investigation and actions, if any, required by the Village.

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3. If the findings of the report are unsatisfactory to either party, either may, within five (5) business days of the report mailing, challenge the findings and submit to the Planning and Zoning Administrator a request for a noise level test performed by a certified acoustic technician. The challenging party will be required to submit a cash deposit in an amount sufficient to pay for the noise level test.
 4. Within seven (7) business days of receiving the request and deposit, the Planning and Zoning Administrator shall arrange for the noise level test. The Planning and Zoning Administrator will mail a copy of the test result report to the Operator and Complainant within three (3) business days of its receipt by the Planning and Zoning Administrator. If the noise level test validates the report findings of the Planning and Zoning Administrator, the challenging party's deposit shall be forfeit. If the test fails to validate the report, the deposit shall be refunded to the challenging party and the non-challenging party shall be billed by the Village for the cost of the test. Further, the Operator shall take immediate action to bring the WES into compliance with this Section. The Village may require the WES to be shut down until compliance can be achieved.
- J. Request for Variance: Nothing in this Code prohibits the applicant from requesting a variance as provided by §702.E.5, of this Code.
- K. Severability: If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code.
- L. Enforcement and Penalty: In addition to any equitable or legal remedy through a court of jurisdiction, a violation of this Ordinance shall be a municipal civil infraction punishable by a fine of not more than \$500.00 per offence in accordance with §707., of this Zoning Code. (Ord. passed 3-2-15)

§429. RESERVED.

§430. EATING PLACES IN THE INDUSTRIAL DISTRICT.

- A. Restaurant or cafeteria facilities may be operated for the benefit of employees only as an accessory use to a principal use in the Industrial District. (Ord. passed 3-2-15)

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§431. ACCESSORY DWELLING UNITS.

A. Intent.

1. It is the intent of this Section to permit Accessory Dwelling Units in all single-family residential zoning districts to enable a new housing alternative that respects the look and scale of single-family neighborhoods while supporting more efficient use of existing housing stock and infrastructure; providing housing that responds to changing family needs; smaller households and increasing housing costs; providing accessible housing for seniors and persons with disabilities; and supporting affordable housing goals.

B. Requirements.

1. A land use permit for an Accessory Dwelling Unit (ADU) may be issued provided the following conditions are met and continue to be met during the life of the Accessory Dwelling Unit:
 - a. The existing site and use are substantially in compliance with this Zoning Code.
 - b. Only one (1) ADU per parcel is allowed with a maximum of two (2) dwelling units per parcel, subject to lot coverage requirements.
 - c. The owner of record shall occupy either the ADU or the primary dwelling unit on the property, except for temporary absences not to exceed a combined total of 6 months in a calendar year. The owner of record shall provide to the Village the name, address and telephone number of the responsible person or other entity for overseeing the property during their absence.
 - d. The ADU shall be designed so that the appearance of the building remains that of a single-family residence or detached accessory structure such as a garage or carriage house. No alteration to the exterior of the residential dwelling, accessory structure or yard that alters the single-family residential character of the premises is permissible.
 - e. If the ADU's primary entrance is not the same as that of the principal dwelling unit, it shall be made less visible from the street view than the main entrance of the principal dwelling unit. Access to an upper story ADU must be internal to the building structure.
 - f. For detached ADU's, the minimum lot area ADU is 5,500 square feet and the maximum size of an ADU with that lot area is 650 square feet in gross floor area or the size of the gross floor area of the ground floor of the primary dwelling, whichever is less. If the lot area is 7,260 square feet or greater, the maximum size of an ADU is 800 square feet in gross floor area or the size of the gross floor area of the ground floor of the primary dwelling, whichever is less.
 - g. The ADU shall not be occupied by more than 2 persons plus their offspring living as a single housekeeping unit.

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- h. Front Yard Prohibited. The ADU may not be located within the front yard.
 - i. Off-street parking shall be provided for the ADU. Tandem or stacked parking in a driveway may count toward the off-street parking requirement if not located in the front yard setback.
 - j. All utilities for detached ADU's shall be installed underground. All ADU's shall have separate utility meters from the primary residence unless a single meter is authorized by the Superintendent, Department of Public Works.
 - k. Leasing or rental of the ADU for less than one hundred eighty (180) days shall be prohibited.
 - l. Prior to occupancy, a deed restriction that runs with the land, shall be filed with the Antrim County Register of Deeds containing a reference to the deed under which the property was acquired by the owner. Such deed restriction shall state:
 - i. The ADU shall not be sold separately from the primary unit;
 - ii. The requirements as stated in this Section; and,
 - iii. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.
 - m. The ADU approval shall be contingent upon the issuance of a final occupancy permit issued by Antrim County, Construction Codes Department. The approved Conditional Use Permit shall be valid for a period of one (1) year from the date of issue unless an extension of not more than 365 days is approved by the Planning and Zoning Administrator.
- C. Existing ADU's.
- 1. Legal, non-conforming ADU's, (those established prior to adoption of this Ordinance), shall be given sixty (60) days after publication of the adoption of this ordinance to apply for a Conditional Land Use Permit and register their ADU with the Village. During this time period, they will not be considered part of the maximum number of new ADU registrations established in Section D.1., below, and the non-conforming ADU will maintain its non-conforming status subject to all the non-conforming regulations in Sec. 706., (Non-Conforming Situations) of this Zoning Code.
 - 2. If a land use permit is issued for a non-conforming ADU, that meets the above requirements, then the ADU shall no longer be considered non-conforming and shall be subject to all the regulations of this Chapter.
- D. Registration of Accessory Dwelling Units.
- 1. There shall be a maximum limit of five (5) newly registered Accessory Dwelling Units per calendar year or as may be amended by Resolution of the Village Council.

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2. Registration and application for a land use permit for ADU's will be submitted to the Planning and Zoning Administrator on a first come, first served basis.
 3. Complete applications will be reviewed by the Planning and Zoning Administrator for Zoning Code compliance.
 4. Upon confirmation of Zoning Code compliance, the Planning and Zoning Administrator, shall issue a land use permit and notify the Village Clerk, Assessor, and emergency response personnel of the registration.
 5. Once the five (5) new registrations and land use permits referenced herein are issued, additional applications will be kept on file by the Village Clerk in the order they were received for processing the next calendar year.
- E. This Ordinance shall be deemed in full force and effective ninety (90) days from the date of its adoption and approval by the Village Council.
(Ord. passed 11-20-17)

§432. – §449. RESERVED.

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§450. SPECIAL LAND USE STANDARDS.

§451. INTENT AND PURPOSE.

- A. The Village of Elk Rapids has determined that certain ~~conditions concerning~~ land uses warrant supplemental regulation in order to be consistent with the public health, safety, and welfare of the Village and to insure 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 use. Section 450 sets forth the districts where the special land uses are permitted, provided the special land uses meet the standards provided in this Chapter.

(Ord. passed 3-2-15)

§452. PRODUCTION SERVICES, CONSTRUCTION, MANUFACTURING, WAREHOUSING, AND INDUSTRIAL REQUIREMENTS.

- A. Activities listed in this section shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors, provided that it is located more than 300 feet from any other district. All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates at least six feet in height. Such storage shall not be deemed to include the parking of licensed motor vehicles under one and one-half tons rated capacity.
- B. Noise emanating from a use in this district shall not exceed the level of ordinary conversation at the boundaries of the lot. Noise may equal but shall not exceed average street traffic noise.
- C. Uses in this district shall not:
1. Emit obnoxious, toxic, or corrosive fumes or gases which are deleterious to the public health, safety, or general welfare, except for those produced by internal combustion engines under designed operating conditions.
 2. Emit smoke, odorous gases, or other odorous matter in such quantities as to be offensive at or beyond any boundary of the use of the parcel.
 3. Discharge into the air dust or other particulate matter created by any industrial operation or emanating from any products stored prior or subsequent to processing.
 4. Produce heat or glare humanly perceptible at or beyond the lot boundaries.
 5. Discharge radioactive materials that exceed quantities established by the U.S. Bureau of Standards.

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6. Include in the manufacturing process any production or storage of any material designed for use as an explosive or use any such material in production.

D. Yards in this district shall conform to the following standards:

1. Except for landscape improvements and necessary drives and walks, the front yard shall remain clear and shall not be used for parking, loading, or accessory structures. Side and rear yards, except for a strip along the lot boundary ten feet in width, may be used for parking and loading but not for storage.
2. Subject to the provisions of §519., which shall prevail, when the side or rear yard areas abut land within a residential district and when such yard areas are to be used for parking, loading, unloading, or servicing, then such side and rear yard areas shall be effectively screened by a solid, uniformly finished wall or fence. Such wall or fence shall be at least six feet in height. The height and extent of such wall or fence shall be determined by the Planning and Zoning Administrator on the basis of proposed side or rear yard usage.

(Ord. passed 3-2-15)

§453. LOCAL INTERURBAN PASSENGER TRANSIT.

- A. All such facilities shall be located on a Major Thoroughfare as defined in Chapter 200 of this Code, and all ingress and egress to the site shall be from the thoroughfare.
- B. All facilities, including parking and passenger loading areas and equipment parking areas, shall observe the required yard setbacks for the zone in which the facility is located. Loading areas where equipment may be located with engines idling shall be located a minimum of 200 feet from any residential use. Off-street parking shall be provided for all patrons, employees, equipment, and other vehicles associated with the operation.

(Ord. passed 3-2-15)

§454. WATER TRANSPORTATION.

- A. Approval of a water transportation facility shall be based upon the applicant presenting to the Village a feasibility study prepared by a qualified and experienced consultant in the field of water transportation facility planning and development. The study shall indicate the extent and nature of facilities required for a development and shall address the issues of facility needs, parking, storage areas, specialized docking requirements, and all other pertinent issues. The Village shall make its determination regarding the issuance of a special use permit based on the feasibility study and the proposal's ability to meet the standards of issuing a special use permit as spelled out in §605, of this Code.

(Ord. passed 3-2-15)

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§455. MARINAS; BOAT DEALERS.

- A. All marina and boat dealer sites shall be located on a Major Thoroughfare, as defined in Chapter 200, of this Code, and all ingress and egress to the site shall be from the thoroughfare.
- B. All points of entrance or exit for motor vehicles shall be located no closer than 50 feet from the intersection of any two streets or highways.
- C. Whenever any use permitted herein abuts property within any residential district, a transition strip at least 50 feet in width shall be provided between the residential property and all operations and structures. Plant materials, grass, and structural screens or fences of a type approved by the Planning Commission shall be placed within the transition strip.
- D. A minimum yard of 50 feet shall separate all uses and operations permitted herein, from any public street or highway used for access or exit purposes. This yard shall be landscaped in accordance with plans approved by the Planning Commission.
- E. A minimum of 50 feet shall separate any improvement from the water's edge marina-related uses and improvements which the Planning Commission determines, due to safety or physical requirements must be located closer to the water's edge, such as boat ramps, attendant shacks, gas docks and pumps, and loading and unloading zones.
(Ord. passed 3-2-15)

§456. FARM EQUIPMENT DEALERS, CONTRACTORS, MOTORIZED EQUIPMENT, TRUCK TRACTOR, AND TRAILER SALES AND SERVICE.

- A. Outdoor display of individual pieces of equipment may be allowed in areas so designed in the site plan as approved, provided that the display area has been designed and constructed as part of the overall site improvements. Display areas shall be suitably landscaped. Such landscaping shall include shrubs and trees in sufficient quantity to mitigate any adverse impact of the outdoor display.
- B. Servicing and repairs shall be conducted only within a totally enclosed building and shall meet the requirements of §464.
(Ord. passed 3-2-15)

§457. MOTOR VEHICLE DEALERS.

- A. The space utilized for outdoor display of motor vehicles shall meet the setback and development requirements for parking lots as set forth in §530., of this Code.

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- B. Vehicle repair facilities shall meet the requirements of §464., of this Code.
- C. Night lighting fixtures shall be downcast type with no protruding lenses, designed to confine the light to the display area only and shall conform to the requirements of §527., Lighting, of this Code.
(Ord. passed 3-2-15)

§458. GASOLINE SERVICE STATIONS; FUEL AND ICE DEALERS.

- A. Intent. It is the intent of this section to exercise a measure of control over service station buildings and their sites, and to establish a basic set of standards which will minimize traffic congestion and safety hazards which are inherent with these types of land use activity. This Code requires conformity to these standards before a building permit may be issued for a gasoline service station.
- B. Uses that may be permitted. Gasoline service stations, as defined in Chapter 200, are permitted, provided that accessory uses and services are conducted within a completely enclosed building.
- C. Site development requirements. The following requirements for site development together with any other applicable requirements of this Zoning Code shall be complied with:
 - 1. Site location. The proposed site shall have at least one property line on a Major Thoroughfare as defined in Chapter 200 of this Code, shall have a minimum site area of 15,000 square feet, and shall have a minimum lot width of 150 feet.
 - 2. Building setback. The service station building or buildings shall be set back 40 feet from all street right-of-way lines and shall not be located closer than 40 feet to any property line in a residential district.
 - 3. Access drives.
 - a. No more than two driveway approaches shall be permitted directly from any major thoroughfare or more than one driveway approach from any other public street.
 - b. Driveway approach widths shall not exceed 36 feet measured at the property line.
 - c. Driveways shall be located as far from street intersections as practical, but not less than 50 feet.

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- d. No driveway or curb cut for a driveway shall be located within ten feet of an adjoining property line.
 - e. Any two driveways giving access to a single street shall be separated by a minimum dimension of 20 feet.
- 4. Exterior lighting. Exterior lighting shall comply with the requirements set forth in §527., Lighting, of this Code.
 - 5. Signs. Signs shall comply with the requirements set forth in §529., Signage, of this Code.
 - 6. Parking. Off-street parking shall comply with the requirements set forth in §530., Off-street Parking and Loading Requirements, of this Code.
 - 7. Curbs. A raised curb at least six inches in height shall be erected along all of the street property lines, except at driveway approaches. The entire service area shall be paved with a permanent surface of concrete or asphalt.
 - 8. Fences. Subject to §523., of this Code, a solid fence or natural screening in accordance with §528., Landscaping, of this Code, shall be erected along all property lines abutting any lot within a residential district.
- (Ord. passed 3-2-15)

§459. HOTEL AND MOTELS.

- A. Intent: The intent of this section is to establish reasonable requirements for transient lodging facilities, exclusive of Bed and Breakfast Establishments. It is intended that these regulations will provide for facilities that are appropriate in scale and design so as to be in keeping with the predominantly rural and residential character of the village.
- B. Requirements:
 - 1. Minimum site size. Sites shall not be less than one acre, a minimum frontage of 150 feet, and a minimum of 800 square feet for each guest unit.
 - 2. Minimum floor area. Each guest unit shall contain not less than 250 square feet of floor area.
 - 3. Minimum yard dimensions. Accept as noted in §516., of this Code, all structures shall set back not less than 30 feet from any public road right-of-way or rear property line, and not less than 20 feet from any side line.

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4. Maximum building height. The maximum building height shall be three stories, but not to exceed 35 feet.
5. Parking and loading requirements. Parking and loading requirements shall be in accordance with §530., of this Code.
6. Site landscaping and screening requirements. Site landscaping and screening requirements shall be in accordance with §528., Landscaping, of this Code.
7. Lighting. All site lighting shall be in accordance with §527., Lighting, of this Code.
8. Signage. All proposed signage shall meet the requirements of §529., of this Code.
9. Accessory uses. Uses such as swimming pools and other outdoor recreational uses, meeting rooms, restaurants, taverns or bars, and a caretaker or proprietor's residence shall be permitted, provided that these uses are located on the same site as the principle use to which they are accessory, and further provided, permits from other governmental agencies having jurisdiction shall have been obtained, and copies of the approved permits being provided to the Planning and Zoning Administrator.

(Ord. passed 3-2-15)

§460. BOARDING RESIDENCES.

- A. All boarding residences shall meet state and local health and safety codes.
- B. Boarding uses shall be carried out in an inconspicuous manner so that the nature of activities related to the residence do not differ significantly from activities related to normal residential uses in the districts.

(Ord. passed 3-2-15)

§461. TRAVEL TRAILER PARKS; CAMPGROUNDS.

- A. Intent. It is the purpose of this section to provide for travel trailer parks, campgrounds, and similar facilities normally operated on a seasonal basis for the accommodation of recreational units, tents, travel trailers, self-propelled homes, or vehicles designed primarily for living or sleeping.
- B. Site development requirements. Site developments shall comply with the provisions of M.C.L.A. §§ 333.12501 *et seq.*, as amended, and also with the following:
 1. No travel trailer park shall be located except with direct access to a county or state highway. Minimum lot width shall be not less than 50 feet for the portion used for

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entrance and exit road(s). No entrance or exit shall be through a residential district or shall require movement of traffic from the park through a residential district.

2. Campsites shall be rented only by the day or week and only during the period of April 15 through November 15.
3. Management headquarters, recreational facilities, toilets, showers, laundry facilities, and other uses and structures customarily incidental to the operation of a travel trailer park are permitted as accessory uses in the districts in which trailer parks are allowed, provided that:
 - a. Such establishments and the parking area primarily related to their operations shall not occupy more than 10% of the area of the park.
 - b. Such establishments shall be restricted in their use to occupants of the park.
 - c. Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.
 - d. In addition to meeting the above requirements, the travel trailer site plan shall be subject to the review and approval of the County Health Department.
 - e. Storage areas for unoccupied travel trailers, motor homes, and similar units may be allowed as an accessory use.

(Ord. passed 3-2-15)

§462. DRIVE-THRU FACILITIES.

- A. The drive-thru shall be located on a Major Thoroughfare, as defined in Chapter 200 of this Code, and all ingress and egress to the site shall be from the same thoroughfare.
- B. The service lane shall be designed for a one-way traffic pattern only.
- C. The drive-thru shall be limited to one service lane.
- D. The service lane shall provide sufficient space so that motor vehicles will not interfere with the circulation of public walks and streets.
- E. The drive-thru function shall be physically separate from any customer parking or maneuvering associated with services provided inside the facility. This physical separation shall be achieved through structures, curbs, landscaped islands, decorative fencing, architectural screen, or approved combinations of these elements.

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- F. In order to limit the number of street access points, site ingress and egress may be shared by the drive-thru and inside customer service functions, when approved by the Planning Commission.
- G. The drive-thru lane shall be delineated with paint, reflective tape or other approved contrasting material, which is applied either upon or as an integral part of the pavement.
- H. No parking space, stacking space or maneuvering lane shall be located within a required setback. Nor shall any drive-thru lane be located closer than five feet to a property line, except where such lane crosses a property line for site access or egress.
- I. Any time the drive-thru operation is in service, provisions shall be made to safely accommodate customers without motor vehicles.
(Ord. passed 3-2-15)

§463. AUTOMOBILE PARKING.

- A. Parking lots shall meet all of the design requirements set forth in §530., Off-Street Parking and Loading, §528., Landscaping, and §527., Lighting, of this Code.
(Ord. passed 3-2-15)

§464. AUTO REPAIR SHOPS AND OTHER AUTO SERVICES.

- A. All such activities shall be conducted within a completely enclosed building; containment areas shall be constructed around locations where hazardous liquids are stored. Containerized liquids shall be stored on concrete or an impervious material and the storage area shall be diked or curbed so as to contain the volume of the stored material in case of an accidental spill. This area shall have no drains or areas where liquids can escape. All operations which involve liquids such as gasoline, oil, transmission fluid, and so forth shall be done on a paved impermeable surface and shall meet all state regulations as required. Any spills shall be cleaned up with an absorbent material.
- B. Floor drains in work areas shall be prohibited from connection to sanitary sewer facilities.
- C. All hazardous waste on the site must be disposed of by a hauler who is licensed to haul hazardous waste. Hazardous wastes include used solvents and batteries.
- D. Employees shall be trained in safe work practices for handling the hazardous substances in the work place. This training includes notification as to the extent of the hazards, safe work habits, and the safest responses to an accidental spill.

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- E. No used parts, particularly disassembled vehicles or other similar materials shall be allowed to be stored out-of-doors.
- F. Cars which are not actively within the repair process shall not be stored on a site unless in a totally screened area.
- G. All activity areas outside of the screened storage area shall be paved with a dust free surface.
(Ord. passed 3-2-15)

§465. GOLF COURSES AND SIMILAR USES.

- A. All sites shall be located on a major thoroughfare as defined in Chapter 200 of this Code, and all ingress and egress to the site shall be from the thoroughfare.
- B. All points of entrance and exit for motor vehicles shall be located no closer than 200 feet from the intersection of any two streets or highways.
- C. Whenever any use permitted herein abuts property within any residential district, a transition strip at least 200 feet in width shall be provided between all operations and structures, including fences, and the residential property. Plant materials, grass, and structural screens or fences of a type approved by the Planning Commission shall be placed within the transition strip.
- D. A minimum yard of 100 feet shall separate all uses and operations permitted herein, including fences, from any public street or highway used for access or exit purposes. This yard shall be landscaped in accordance with plans approved by the Planning Commission.
- E. Whenever a swimming pool is to be provided, the pool shall be constructed and operated in accord with Act 368 of the Public Acts of 1978 as amended, being M.C.L.A. §§ 333.1101.
(Ord. passed 3-2-15)

§466. MECHANICAL AMUSEMENT ARCADES.

- A. There shall be in physical attendance at all times of operation a minimum of one adult employee whose responsibility shall be to supervise the conduct of patrons on or near the premises, in particular activities in parking and other site areas. If deemed necessary, the village may require the attendance of a uniformed security guard or law enforcement officer on the premises. The costs for such supervision shall be borne by the arcade owner and/or operator.

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- B. Suitable ventilation, fire protection measures, and adequate lighting inside and outside the premises shall be provided for the safety of patrons and the public.
- C. All off-street parking, loading, and public street access requirements shall be provided as required by §530., of this Code.
- D. Bicycle racks shall be provided on-site within 25 feet of any arcade.
- E. Where machines are located along one side of an aisle, the aisle shall be a minimum of 66 inches in width and shall be unobstructed. When machines are located on both sides of any aisle, the aisle shall be not less than 90 inches in width and shall be unobstructed, and such open areas shall be unobstructed. The maximum number of machines in any arcade shall not exceed one machine for every 40 square feet of gross floor area allotted to the arcade operations.
- F. No game arcade shall be maintained or operated unless all portions of the interior of such game arcade, except the restrooms thereof, are plainly visible from the outside of the building through unobstructed windows or glass doors. All windows and glass doors which provide a view of the interior of the premises shall remain unobstructed at all times. All arcades which are part of another use shall be clearly visible from other public uses within the building. All entrances and interior areas shall be adequately lighted.
- G. During periods when the school system is in normal session, no game arcade shall be open for business except between the hours of 10:00 a.m. and 10:00 p.m. on Sundays through Thursdays; and between the hours of 10:00 a.m. and 12:00 p.m. on Fridays and Saturdays. However, no person under 18 years of age, unless accompanied by a parent or guardian, may enter, be, or remain in any part of a game arcade during such times as the school system is conducting its regular education program.
- H. A person shall not enter, be, or remain in any part of a game arcade while in the possession of, consuming, using, or under the influence of any alcoholic beverage or drugs. No licensee, manager, or supervisory employee shall permit any such person to enter or remain on the premises. The sale of tobacco products on the premises shall be prohibited. A sign shall be posted inside the arcade stating in letters at least two inches high: "No Consumption of Alcoholic Beverages."
- I. Other reasonable conditions as may be imposed by the village to further the purposes of this Zoning Code.
(Ord. passed 3-2-15)

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§467. INSTITUTIONAL STRUCTURES AND USES.

- A. The Planning Commission may authorize the construction, maintenance, and operation of institutional structures and uses. For the purpose of this section, Institutional Structures and uses include the following:
1. Religious institutions. Churches or similar places of worship, convents, fellowship or social halls, shelters or day care facilities that are part of the church function. Residences associated with religious institutions, such as parsonages, parish houses or other houses for clergy; need only meet the requirements of the underlying zoning district.
 2. Educational and social institutions. Private elementary and secondary schools, public and private colleges and universities, correspondence/vocational schools, libraries, centers for social activities, auditoriums and other places of assembly.
 3. Utility and essential service installations. Electric power transformer stations, gas regulator stations and other essential service installations.
 4. Institutions for human care. Hospitals, sanitariums, homes for the aged, nursing or convalescent homes.
 5. Institutional or community recreation centers and recreational land use. Public or privately owned and operated parks, picnic groves, nature trails, athletic fields and game courts. Athletic fields and game courts that are associated with and part of public elementary and secondary schools site plan approved by the State of Michigan Superintendent of Public Instruction are exempt from these requirements.
- B. Institutions set forth in §467.A., above shall:
1. Be compatible and appropriate in scale and character with existing or planned surrounding developments.
 2. Have entrance and exit drives directly onto a village street.
 3. Have lighting designed in accordance with §527., Lighting, and be unobtrusive to neighboring properties. That is, all exterior lighting will be so arranged as to direct light away from all neighboring properties. The Planning Commission may require a registered professional engineer or architect for the design of any or all exterior lighting of an institutional development.
 4. Operate only during hours that are compatible with adjacent residential uses.

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5. Setback requirements will be maintained as follows, with the exceptions noted below.
 - a. A 50 foot setback from all adjacent (neighboring) property lines will be maintained.
 - b. A 30 foot setback from all street right-of-way lines will be maintained.
 - c. The 30 foot setback from all street right-of-way lines and the first 30 feet of the 50 foot setback from all adjacent (neighboring) property lines will be used exclusively for a green space. With the exception of a lot line fence, no structure will be allowed within this 30 foot setback.
 - d. Allowed between the 30 foot setback and the 50 foot setback of adjacent (neighboring) property lines are uses related to the principal use of the property, excluding structures for temporary and/or regular human occupancy, such as buildings, tents and multi-tier seating. Examples of acceptable use items include, but are not limited to: light poles, scoreboards, driveways, statues, gardens/grottos, small buildings (100 square foot maximum).
6. The Planning Commission may require additional fencing, berms and/or landscaping.
(Ord. passed 3-2-15)

§468. GROUP DAY CARE HOMES AND CHILD CARE CENTERS.

- A. Group day care home and child care center uses shall be duly licensed by the State of Michigan.
- B. Fencing of outdoor play areas may be required should it be determined by the Planning and Zoning Administrator that conditions exist in the immediate vicinity which could be hazardous to the user children or that objectionable trespass could occur onto neighboring properties by the user children. The Planning and Zoning Administrator shall make such determination by contacting adjacent property owners by U.S. mail and allowing a ten-day response time to receive comments from the neighbors regarding such probability.
- C. The Planning Commission may, at any time, in accordance with the requirements of Act 116 of the Public Acts of 1973, as amended, being M.C.L.A. §§ 722.111 through 722.128, limit the hours of operation of a group day care home should it receive any written complaints regarding operating hours.

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- D. The Planning Commission may approve child care centers within the commercial districts, provided that it is demonstrated that children may be dropped off and picked up in a safe manner and at a location free from street traffic, that there is a minimum of 2,500 square feet of fenced and adequately equipped outdoor play area, and that there is sufficient off-street parking provided for the largest number of employees on the premises at any one time.
- E. The Planning Commission may approve child care centers within the industrial zone, provided that the requirements of §468.D., of this section are met and further, that the use is accessory to and provided as a part of principal uses in that district.
(Ord. passed 3-2-15)

§469. ADULT FOSTER CARE FACILITIES.

- A. Adult foster care facility uses shall be duly licensed by the State of Michigan.
- B. A maximum of ten adults may receive foster care at any one time at any one facility.
- C. Such facilities shall be located where adult foster residents will be safe from traffic and other hazards.
(Ord. passed 3-2-15)

§470. MULTIPLE HOUSING SITE DEVELOPMENT REQUIREMENTS.

- A. Authorization. Two or more residential buildings may be built upon one lot or parcel of land when the site development requirements set forth in this section have been complied with.
- B. Minimum site area. No group housing development shall be authorized with a gross site area of less than one acre.
- C. Minimum lot area and width. See §534., of this Code.
- D. Maximum lot coverage. No more than 35% of the net area within property lines of a group housing project, including accessory buildings, shall be covered by buildings.
- E. Yards and other open space.
 - 1. Between buildings. The minimum horizontal distance between buildings (front to front, rear to rear, or front to rear) shall be 50 feet for buildings one story in height. This distance shall be increased by not less than five feet for every story added. The minimum distance between buildings may be decreased by as much as ten feet

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toward one end, if it is increased by a similar distance at the other and consistent modifications are permitted by the Planning Commission to accommodate plans which are not conventional in their outline or in their relations to other buildings.

2. Between ends of buildings. The horizontal distance between ends of buildings shall be 20 feet or more for one- or two- story buildings. These distances shall be increased by not less than five feet for every story added.
 3. Closed courts. No closed court shall be permitted. However, open arcades or garden walls less than six feet in height shall not be deemed enclosing features.
 4. Yard dimensions. For buildings up to 35 feet in height, no building shall be closer than 25 feet to any street; 35 feet to any rear property line; 20 feet to any interior side property line. For each one foot of building height above 35 feet, one foot shall be added to required front, side, and rear yards.
 5. Other dimensions. No dwelling unit in a group housing development shall be closer to a street or private access drive than 25 feet or shall be further from a street or private access drive than 150 feet.
 6. Usable open space. A minimum usable open space area of 300 square feet per dwelling unit shall be provided with group housing developments. Such open space shall be provided at ground level, unoccupied by principal or accessory buildings, and be available to all occupants of the group housing development. Each open space area so provided shall have a minimum total area of 1,200 square feet, shall be unobstructed to the sky, and shall not be devoted to service driveways or off-street parking or loading space; however, the open space area shall be usable for greenery, drying yards, recreational space, and other leisure activity normally carried on outdoors.
- F. Maximum building height. The maximum height of buildings housing the principal use shall be governed by the yard and lot area requirements. Accessory buildings shall not exceed 15 feet in height.
- G. Private streets. Private streets or private access drives may be permitted within group housing developments, provided that the following minimum requirements are met:
1. Unless granted a waiver as provided below, all streets, roadways or private access drives serving a group housing development of four or more units shall be paved to a minimum width of 20 feet. Wider paving may be required by the Planning Commission based upon the particular density, building relationships, and/or parking requirements of the proposed group housing development. If parking is not allowed on them, such

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access drives that serve group housing developments of three or fewer units shall be a minimum width of 12 feet and an improved road base, unless granted a waiver with gravel, crushed stone or dustless surface.

2. No dead end street or roadway shall serve more than 100 families as a means of vehicular access.
3. Suitable turning facilities shall be provided for vehicles at the terminus of all dead end streets or roadways. A minimum radius of 50 feet shall be required for all turnarounds, and additional width may be required by the Planning Commission after consideration of the vehicular needs of a particular group housing development proposal.
4. Satisfactory arrangements have been made with the Planning Commission regarding the maintenance and repair of streets, roadways, or access drive.
5. Private access roads and drives that serve group housing developments of three or fewer units may utilize gravel, crushed stone, or other dust-producing surface, if in the opinion of the Planning Commission and upon the request of the property owner, said surface will serve the owners, without creating either a nuisance for an abutting landowner or a poor quality for autos, delivery trucks and pedestrians. Such approval shall be by waiver of the dustless surface requirement following a discussion thereon at a meeting of the Planning Commission of which the applicant and the abutting property owners have all been notified at least two weeks in advance. Any such alternative surface must be maintained in good condition at all times. Failure to do so could result in the Planning Commission, after giving notice to the landowner, withdrawing the waiver and requiring the installation of a dustless surface within 30 days.

- H. Conformance to Master Plan.
(Ord. passed 3-2-15)

§471. MOBILE HOME PARK DEVELOPMENTS.

- A. The Village of Elk Rapids has determined that mobile home park developments have special characteristics which require full consideration of their location, their site layout and design, their demand upon community services, and their relationship to and affect upon surrounding uses of land.
- B. Mobile Home shall be as defined in Chapter 200 of this Code. Mobile Home does not include a recreational vehicle.

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- C. The following uses may be permitted as part of a Mobile Home Park Development:
1. A mobile home development may include any or all of the following uses or structures, provided that a plan of the proposed development is approved by the State of Michigan in accordance with M.C.L.A. §§ 125.2301 *et seq.*, and provided further that the development plan can meet the standards of this section.
 2. One permanent building for conducting the operation and maintenance of the mobile home park development and such other accessory buildings including a caretaker's residence as may be necessary for the normal operation of the mobile home development.
- D. Parking requirements:
1. Parking shall be prohibited on any street or access lane.
 2. No visitor vehicles shall be parked or stored within any required open space between mobile homes or any drive or street within the mobile home park.
 3. Space between mobile home units may be used for parking of motor vehicles, provided that such space is surfaced with materials which provide a dustless, durable, and smooth surface.
 4. Off-street group parking facilities shall be within 300 feet of all mobile home lots intended to be served.
- E. Site development requirements. All mobile home park developments shall comply with the following site development and maintenance requirements:
1. State law. The development shall comply with all requirements of M.C.L.A. §§ 125.2301 *et seq.* In cases where higher standards have been adopted by the village and approved by the Mobile Home Commission, they shall prevail.
 2. Plans. A preliminary plan filed in conformance with the requirements of Section 11 of the "Mobile Home Commission Act," being M.C.L.A. § 125.2311, shall be filed with the Planning and Zoning Administrator at the time of the filing of application for a special use permit.
 3. License. Every mobile home park shall be licensed by the State Department of Commerce as required by Rule 125.1804 *et seq.* of the General Rules of the Mobile Home Commission.

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4. Site size. Any mobile home park development shall have a site of at least 15 acres.
5. Site location. Access to the mobile home park development site location shall be from a public thoroughfare only. The access shall be designed with a capacity to safely and effectively handle any increased traffic which may be generated by the mobile home park development.
6. Site access.
 - a. Each mobile home park development shall be provided with an entrance or exit drive off a public thoroughfare. The ingress and egress shall be paved.
 - b. The entrance or exit drives shall be located no closer than 125 feet from the intersection of any two public thoroughfares.
7. Space requirements.
 - a. The mobile home park shall be developed with sites having an average of 5,500 square feet per mobile home site being served.
 - b. The 5,500 square feet may be reduced by 20%, provided that the individual site shall be equal to at least 4,400 square feet.
 - c. For each square foot of land gained through the reduction of the site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space requirement be less than that required under R 125.1946, Rule 946 of the Michigan Administrative Code.
- F. Yard requirements. No mobile home unit shall be located closer than 23 feet from any private street or roadway, ten feet from a side site line, or ten feet from a rear site line.
- G. Wood burning heating systems. The installation of wood-burning heating stoves or furnaces shall require a permit issued by the Michigan Department of Labor, Bureau of Construction Codes, Mechanical Division.
- H. Park roads:
 1. Each mobile home lot or premises shall have access to a park driveway, roadway, or street which shall be paved to a minimum width of 20 feet. No parking shall be permitted on the roadway.

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2. If a one-way street pattern is proposed and adopted, then the street width may be paved to a minimum of 16 feet. No parking shall be permitted on the roadway.
- I. Mobile home unit lot improvements. Each mobile home unit shall occupy at least a single lot size and shall comply with the following:
 1. All parking areas within the mobile home park shall be clearly defined.
 2. If a one-way street pattern is proposed and adopted, then the street width may be paved to a minimum of 16 feet.
 - J. Building height. No mobile home unit or other building or structure shall exceed 25 feet in height, except that one permanent building in the mobile home park development used for conducting the business operation may contain two stories.
 - K. Lighting.
 1. No spotlights or floodlights shall be used for lighting or advertising purposes.
 2. No lighting used for identification, advertising purposes, or street lighting shall have a visible source of illumination or light lenses.
 3. No lighting shall shine on adjacent properties.
 - L. Heating fuel tanks. Only heating fuel tanks will be permitted above ground and shall be suitably screened.
 - M. Mobile home unit sales.
 1. The business of selling new and/or used mobile homes as a commercial operation in connection with the operation of a mobile home development is prohibited.
 2. New or used mobile homes located on lots within the mobile home development to be used and occupied within the mobile home park may be sold by a licensed dealer and/or broker.
 3. This section shall not prohibit the sale of a new or used mobile home by a resident of the mobile home development, provided that the development permits the sale.
 - N. Occupancy. No completed mobile home unit shall be occupied until a park license covering the occupied site has been issued by the State of Michigan, Department of Commerce. (Ord. passed 3-2-15)

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§472. RADIO, TELEVISION, AND MICROWAVE TOWERS.

- A. Radio, television, microwave towers and satellite signal receiving antennas greater than one meter (39.37") in diameter shall follow the same regulations as set forth in §427., for satellite signal receiving antennas.
- B. In addition to the requirements of §427., the site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the tower with its specific dimensions, the location of any guy wires or other support devices, and the location of all occupied dwelling units within 500 feet of the tower.
- C. Any tower, or portion thereof, erected under this section shall be no closer to utility lines or property lines than the height of the tower.
(Ord. passed 3-2-15)

§473. PLANNED SHOPPING CENTERS.

- A. The owner or owners of a tract of land which comprises five acres or more may submit to the Planning Commission and the Village Council a request for a site plan approval for a planned shopping center. Such request shall also be accompanied by the following evidence and supporting data, without which an application shall not be accepted by the Planning Commission and the Village Council:
 - 1. A market analysis by a recognized, reputable market analyst setting forth conclusively economic justifications and needs for the establishment of a center of the type and size proposed by the applicant. This analysis shall be based upon, but not limited to, such factors as the trade area of the community and travel time from various parts thereof to the proposed center site; general development trends and anticipated population changes; economic trends and disposable income characteristics; expected sales volumes of the center as indicated by the demand for certain types of retail merchandise; existing or anticipated competing commercial facilities; and other data and analysis which relate to the need for and feasible success and stability of the proposed center. The purpose of this requirement is to protect the village from the overdevelopment of retail sales and service establishments which could prove highly injurious to the community welfare.
 - 2. A traffic survey prepared by qualified experts indicating the effects of the proposed shopping center on adjacent streets and also indicating the anticipated points of origin, direction, and amount of traffic flow to and from the proposed center.

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3. A list of proposed uses to be included in the proposed center, with the area of each to be devoted to retail space.
 4. A statement of financial responsibility to assure construction of the planned shopping center in accordance with the site plan and the requirements of this section.
- B. Site development requirements. All permitted activities shall be conducted entirely within a wholly enclosed permanent building, except as noted in the following:
1. The parking of customers' and employees' automobiles.
 2. The loading and unloading of commercial vehicles, which must take place directly into or out of a building.
 3. Temporary exhibitions and special quasi-civic events, provided that they are conducted in spaces designated for such possible purposes on the final plans submitted with the application for a building permit, and provided further that they shall not be operated for a profit.
 4. Recreational facilities, incidental to the center's principal operations of nature, normally conducted out-of-doors, provided that there shall be no admission charge.
 5. Gasoline service stations, provided that they conform to the site development requirements of §458.
 6. Outdoor eating or other supplemental sales area provided that they are approved by the Planning Commission and the Village Council.
- C. Parking areas and circulation. All automobile parking areas and interior circulation for motor vehicles shall be designed in accordance with the following requirements:
1. Any individual parking space in the center shall be accessible by clearly demarcated walks from the shopping area.
 2. Automobile, pedestrian, and truck traffic shall be separated to the fullest possible extent.
 3. Automobile circulation design shall provide for access to parking areas in such a way that there shall be no backing up to traffic into any external street under conditions of anticipated maximum center-destined traffic.

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4. All areas accessible to vehicles or pedestrians shall be illuminated.
- D. Access. Access to the shopping center shall be provided by at least one direct access from a Major Thoroughfare, as defined in Chapter 200 of this Code. Further, the owners or developers of the center shall show, to the complete satisfaction of the village, that all access points to an external street or streets shall be fully capable of absorbing the maximum hourly traffic anticipated to be generated by the center without undue interference to other traffic on the street or streets.
- E. Surface improvements. All areas accessible to vehicles shall be paved and maintained so as to provide a permanent, durable, and dustless surface and shall be so graded and provided with adequate drainage facilities that all collected surface water is effectively carried away from the site.
- F. Structure location. No structure, with the exception of permitted signs, fences, walls and light standards, shall be located close to any property line of the center than a distance equal to twice its height.
- G. Signs. All signs within the center shall conform to the provisions of §529., Signage, of this Code.
- H. Lighting. All outdoor lighting shall be accomplished in accordance with the requirements of §527., Lighting, of this Code.
- I. Transition strips. All Planned Shopping Center development, when located in or adjacent to an agricultural district, residential district, or when adjacent to a school, hospital, or other public institution, shall include as an integral part of the site development a strip of land 200 feet or more in width on all sides of the site except on the side fronting on a major thoroughfare. No part of such land may be used for any shopping center functions, except that up to 100 feet of the strip width on the interior side may be used as part of the parking area. Except for the part that may be occupied by the parking space, the strip shall be occupied by plant materials or structural fences and walls, used separately or in combination.
(Ord. passed 3-2-15)

§474. "INNS" WITHIN THE CENTRAL BUSINESS DISTRICT.

- A. Intent. It is the purpose of this section to establish reasonable requirements for transient lodging facilities within the B-2, Central Business District exclusive of Bed and Breakfast Establishments. It is intended that these regulations will provide for such facilities in the Village that are appropriate in scale and location so as to not create undue traffic congestion, noise, or other interference with the predominantly rural and residential

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character of the Village.

- B. Maximum number of units. There shall be no more than 20 transient residential units per inn establishment.
- C. Minimum floor area. Each guest unit shall contain not less than 250 square feet of floor area.
- D. Maximum building height. The maximum height shall be three stories, but not to exceed 35 feet.
- E. Lighting. No lighting shall have a source of illumination or light lenses visible outside the property lines of the parcel or lot and shall in no way impair safe movement of traffic on any street or highway.
- F. Accessory uses. Uses such as swimming pools and other outdoor recreational uses, meeting rooms, restaurants, taverns or bars, and a caretaker or proprietor's residence shall be permitted, provided that these uses are located on the same site as the principle use to which they are accessory. Permits shall have been obtained from appropriate county or state agencies. Additional parking and signage requirements shall be met for accessory uses in accord with §530., and §529., respectively, of this Code.
(Ord. passed 3-2-15)

§475. SEXUALLY ORIENTED BUSINESS.

- A. Purpose. It is the purpose of this section to regulate sexually oriented businesses and related activities to promote health, safety, morals, and general welfare of the citizens of the village, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the village. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.
- B. Findings and rationale.
 - 1. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Village Planning Commission and the Village Council, and on findings, interpretations, and narrowing constructions incorporated in

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the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Daytona Grand, Inc. v. City of Daytona Beach*, 2007 LEXIS 15361 (11th Cir. 2007; and *Deja vu of Nashville, Inc. v. Metropolitan Gov't of Nashville and Davidson County*, 2006 WL 2882969 (6th Cir. 2006); *Sensations, Inc. v. City of Grand Rapids*, No. 1:06-cv-300, R.73, Opinion (W.D. Mich. Oct. 23, 2006); *729 Inc. v. Kenton County*, 2006 WL 2842884 (E.D. Ky. 2006); *Deja vu of Cincinnati, L.L. C. v. Union Township Bd. of Trustees*, 411 F.3d 546 (5th Cir. 2006); *City of Chicago v. Pooh Bah Enterprises, Inc.*, 2006 WL 2827608 (Ill. 2006); *Sensations, Inc. v. City of Grand Rapids*, 2006 WL 2504388 (W.D. Mich. 2006); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, 2006 WL 2873027 (7th Cir. 2006); *181 South, Inc. v. Fischere*, 454 F.3d 228 (3rd Cir. 2006); *Bronco's Entertainment, Ltd. v. Charter Twp. Of Van Buren*, 421 F.3d 440 (6th Cir. 2005); *Charter Twp. Of Van Buren v. Garter Belt, Inc.*, 258 Mich. App. 594 (2003); *Jott Inc. v. Clinton Twp.*, 224 Mich. App. 513 (1997); *Michigan ex rel. Wayne County Prosecutor v. Dizzy Duck*, 449 Mich. 353 (1995); *Z.J. Gifts D2, L.L. C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Kentucky Restaurant Concepts, Inc. v. City of Louisville*, 209 F. Supp. 2d 672 (W.D. Ky. 2002); *Restaurant Ventures v. Lexington-Fayette Urban County Gov't.*, 60 S.W. 3d 572 (Ky. Ct. App. 2001); *Deja vu of Nashville, Inc. et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F. 3d 377 (6th Cir. 2001); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Ctr. For Fair Public Policy v. Maricopa County*, 336 F. 3d 1153 (9th Cir. 2003); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. Metro Gov't.*, Case No. 04-CI-01967 (Jefferson Circuit Court, Summary Judgment Order, Dec. 14, 2004); *DLS Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywyne, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Currence v. City of Cincinnati*, 28 Fed. Appx. 438 (6th Cir. Jan 24, 2002); *Broadway Books v. Roberts*, 642F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F. 3d 435 (6th Cir. 1998); *Bamon Corp. v. City of Dayton*, 923 F. 2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F. 3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F. 2d 1210 (10th Cir. 1990); *Threesome Entertainment v. Strittmather*, 4F. Supp. 2d 710 (N.D. Ohio 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *In re Tennessee Public Indecency Statute*, 172 F.3d 873 (6th Cir. Jan. 13 1999)(table);

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2. And, based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota);
3. The Village Council finds:
 - a. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
 - b. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
 - c. Each of the foregoing negative secondary effects constitutes a harm which the village has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the village's rationale for this section, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the village's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the village. The village finds that the cases and documentation relied on in this section are reasonably believed to be relevant to said secondary effects.
- C. Definitions. See Chapter 200. For purposes of this section, the terms defined in Chapter 200 of this Code shall apply unless the context clearly indicates or requires a different meaning.

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D. Permit required.

1. It shall be unlawful for a person to operate a sexually oriented business without a Special Use Permit approved by the Planning Commission and a valid sexually oriented business license issued by the Village Clerk in accordance with the requirements of Chapter 4, Article II, Code of Ordinances, Village of Elk Rapids. The fact that a person possesses other types of state or county permits and/or licenses does not exempt the person from the requirement of obtaining a Special Use Permit and sexually oriented business license from the Village of Elk Rapids.
2. An application for a Special Use Permit shall be made on a form provided by the Village of Elk Rapids and, notwithstanding the requirements established in this section, shall meet the requirements of §605 of this Ordinance.
3. All applicants must be qualified according to the provisions of this section. The application may request and the applicant shall provide such information as to enable the village to determine whether the applicant meets the qualifications established in this section.
4. All applications shall include a statement that:
 - a. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
 - b. The applicant has read the provisions of this section.

E. Planning Commission review and hearing.

1. Upon receipt of an application for a Special Use Permit, the Planning Commission shall conduct a public hearing in accordance with the requirements of §705 of this Code.
2. The Planning Commission shall conduct the public hearing and take action on the proposed request to operate a sexually oriented business based on the standards contained in this ordinance within 60 days from its first regularly scheduled meeting that takes place subsequent to the date upon which a completed application for a special use permit is submitted to the Planning and Zoning Administrator. In the event the Planning Commission has not taken action on the request within the 60-day period provided herein, then such Special Use Permit shall be deemed to have been approved.

F. Issuance or non-issuance of Special Use Permit.

1. A Special Use Permit under this section shall not be approved by the Planning

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Commission or issued by the Planning and Zoning Administrator if, determined by a preponderance of the evidence, the applicant has failed to provide information reasonably necessary for the issuance of the permit or has falsely answered a question or request for information on the application form or required in this section.

2. The decision of the Planning Commission regarding issuance, denial or revocation of the permit application shall be served upon the applicant in writing within 14 days of the date of the decision.
 3. Decisions of the Planning Commission to approve, deny, or approve with conditions a Special Use Permit may be appealed to the Circuit Court, County of Antrim by filing written notice of the appeal within 21 days of the date of approval, denial or approval with conditions of the Planning Commission decision. Failure of the applicant to appeal the decision of the Planning Commission, in writing, within 21 days, shall eliminate and foreclose any and all legal rights the applicant may have to challenge the decision of the Planning Commission.
- G. Location of sexually oriented businesses.
1. A sexually oriented business may not be operated within 1,000 feet of:
 - a. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - b. A public or private educational facility including but not limited to nursery schools, preschools, special education schools, public or private elementary, intermediate, junior high, middle or high schools;
 - c. A licensed child day care center;
 - d. Another sexually oriented business;
 - e. A public park except for the public park located within the Industrial Park; and/or
 - f. An entertainment or food business which is oriented primarily towards children or family entertainment; or a premises, licensed pursuant to the alcoholic beverage control regulations of the State of Michigan, except within the Industrial Park.
 2. A sexually oriented business may not be operated within 500 feet of a boundary of any residentially zoned district or any residential structure within a commercial zoning district.

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3. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
4. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of those entities identified in §G., above.

H. Additional regulations for Adult Motels.

1. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours duration creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this section.
2. A person commits a civil infraction if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business permit, rents or sub-rents a sleeping room to two or more persons and, within ten hours from the time the room is rented, rents or sub-rents the same sleeping room again.
3. For the purposes of §H.2., above, the terms **RENT** or **SUB-RENT** mean the act of permitting a room to be occupied for any form of consideration.

I. Additional regulations for nude model studios.

1. A nude model studio shall not employ any person under the age of 18 years.
2. A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division if the person under 18 years was in a restroom not open to public view or visible to any other person.
3. A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.
4. A violation of this section shall be grounds for criminal prosecution of both the underage person, and of any licensee, owner, operator, and employees who permitted the violation of the section by the underage person.

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5. It is a defense to prosecution under this section, that a person appearing in a state of nudity did so in a modeling class operated:
 - a. By a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;
 - b. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation;
 - c. By or in an art related business:
 - Which has no sign visible from the exterior of the structure or other advertising that indicates a nude or semi-nude person is available for viewing; and
 - Where, in order to participate in a class a student must enroll at least three days in advance of the class; and
 - Where no more than one nude or semi-nude model is on the premises at any one time.
- J. Additional requirements for a sexually oriented business with live entertainment.
1. Any sexually oriented business offering live entertainment shall further comply with all of the following:
 - a. A dressing area for performers must be provided with direct access to the performance area or stage, with direct access back from the performance area or stage to the dressing area, such that the performer may enter and leave the performance area or stage without entering the area from which patrons view the performance;
 - b. Access to the performance area, stage, and dressing room must be handicap accessible to the extent required by law;
 - c. The performance area or stage must be elevated at least 18 inches above the area from which patrons will view the performance;
 - d. The dressing area for performers must be separate and not freely accessible from areas of the business accessible to patrons;

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- e. The performers' dressing area must have hot and cold running water and adequate toilet facilities;
 - f. An employee, owner, independent contractor, or performer of any type whose activities are characterized by the display of specified anatomical areas or specified sexual activities shall not engage in any physical contact with, or be within six feet of, patrons during performances; neither shall any such person receive tips or gratuities from patrons for performances;
 - g. It shall be a violation of this section for any employee who regularly appears semi-nude in a sexually oriented business to sit with or visit at the table of or counter seating a customer on the premises of a sexually oriented business within one hour of that employee appearing semi-nude.
 - h. A sign in form to be prescribed by the Planning and Zoning Administrator, and summarizing the provisions of sub-sections J.1.f. and J.1.g., above, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry.
- K. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms.
- 1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - a. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises;
 - b. The application shall be sworn to be true and correct by the applicant;

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- c. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Planning and Zoning Administrator;
 - d. It is the duty of the permittee(s) and operator(s) of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises;
 - e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this division must be by direct line of sight from the manager's station;
 - f. It shall be the duty of the permittee(s) and operator(s), and also that of the agent(s) or employee(s) present in the premises to ensure that the view area specified in sub-section v., above, remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted;
 - g. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot candle as measured at the floor level;
 - h. It shall be the duty of the permittee(s) and operator(s), and also that of the agent(s) or employee(s) present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises;
 - i. No permittee(s) or operator(s) shall allow openings of any kind to exist between viewing rooms or booths.
2. A person having a duty under sub-sections K.1.a. through K.1.i., above commits a civil infraction if he/she knowingly fails to fulfill that duty.
- L. Sexually explicit performance prohibited.
1. No person shall dance, entertain, display or otherwise engage in any exhibition or performance in such a manner as to expose to the view of any person within a

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sexually oriented business, or in any other commercial establishment, any specified anatomical areas, or any device, costume or covering which gives the appearance of or simulates any specified anatomical areas.

2. No person shall engage in any specified sexual activities on the premises of a sexually oriented business.
3. It shall be unlawful for any person to knowingly promote the commission of any of the unlawful acts listed in in this sub-section.

M. Exterior portions of sexually oriented businesses.

1. It shall be unlawful for permittee(s), operator(s) or employee(s) of a sexually oriented business display or allow merchandise or activities within the establishment to be visible from any point outside of the establishment.
2. It shall be unlawful for permittee(s), operator(s) or employee(s) of a sexually oriented business display or allow the exterior portion of the establishment to have any words, lettering, photographs, silhouettes, drawings, graphics or other pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this section.
3. Signage shall be in accordance with the requirements of §529., Signage, of this Code, except that only the name of the establishment shall be permitted on the sign. Photographs, silhouettes, drawings, graphics or other pictorial representations of a sexual or explicit nature are prohibited.
4. It shall be the duty of the operator of a sexually oriented business to:
 - a. Post conspicuous signs approve by the village stating that no loitering is permitted on such property;
 - b. Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every 90 minutes or inspecting such property by use of video cameras and monitors; and,
 - c. Provide dark sky type lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

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5. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.
6. No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.

N. Prohibition against children in a sexually oriented business.

1. It shall be unlawful for permittee(s), operator(s) or employee(s) of a sexually oriented business to knowingly allow a person under the age of 18 years to enter or be on the premises of the establishment.
2. It shall be the duty of the permittee(s) and/or to operators of a sexually oriented business to ensure that an attendant is stationed at each public entrance to the establishment at all times during regular business hours. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the establishment. It shall be presumed that an attendant knew a person was under the age of 18 years unless such attendant asked for and was furnished:
 - a. A valid operator's, commercial operator's or chauffeur's driver's license; or
 - b. A valid government issued photo identification certificate reflecting that such person is 18 years of age or older.

O. Hours of operation. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 8:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 p.m. on Sundays.

P. Notices.

1. Any notice required or permitted to be given by the village or any other agency under this section, to any owner, applicant, operator, permittee or any other entity having any interest in the sexually oriented business establishment, shall be by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit or in a transfer application that has been noticed to the Village of Elk Rapids. Notices mailed as stated above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Village of Elk Rapids shall cause it to be posted at the principal entrance to the establishment.

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2. Any notice required or permitted to be given to the village by any person under this section shall not be deemed given until and unless it is received in the principal office of the village.
3. It shall be the duty of each owner, applicant, operator, permittee or any other entity having any interest in the sexually oriented business establishment to furnish notice to the Planning and Zoning Administrator, in writing, any change of residence or mailing address.

Q. Violation.

1. Any violation of any provision of this section or any permit, site plan approval, license or variance granted hereunder, or any lawfully order of the Planning and Zoning Administrator, Board of Appeals, Planning Commission, Village Council, or their designated representative issued in pursuance of this section shall be a municipal civil infraction as described in Chapter 13 of Village of Elk Rapids, General Code of Ordinances. A violation includes any act which is prohibited or made or declared to be unlawful or an offense by this section and any omission or failure to act where the act is required by this section.
 2. The sanction for any violation of this section which is a municipal civil infraction shall be a civil fine as provided in §707, of this Code, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1962, as amended, being M.C.L.A. §§ 600.8701 et seq. and other applicable laws.
 3. Abatement of sexually oriented businesses as a public nuisance. Nothing within this section shall preclude the Attorney General of the State of Michigan, or any citizen of Antrim County from maintaining an action to enjoin and abate a sexually oriented business as a nuisance.
- R. Administrative liability. No officer, agent or employee of the Village of Elk Rapids shall render himself or she personally liable for any damages that may accrue to any person as a result of any act required or permitted in the discharge of his or her duties under or in the enforcement of this section.
- S. Severability and captions. This section and its various parts, sections, subsections, sentences, phrases and clauses are declared to be severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the section shall not be affected. The captions included at the beginning of each section are for convenience only and shall not be considered a part of this section.

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- T. Repeal. All resolutions, ordinances, or orders in conflict in whole or in part with any of the provisions of this section are, to the extent of such conflict, repealed.
(Ord. passed 3-2-15)

§476. GENERAL MERCHANDISE STORES, MISCELLANEOUS RETAIL STORES, GREATER THAN 3,000 SQUARE FEET GROSS FLOOR AREA.

- A. All such facilities for uses covered under this section shall be located on a Major Thoroughfare as defined in Chapter 200 of this Code.
- B. The following evidence and supporting data shall be provided for uses covered under this section:
1. A market analysis appropriate to the scale of the anticipated use prepared by a qualified person setting forth conclusively economic justification and need for the establishment of the use of the type and size proposed by the applicant. This analysis shall be based upon, but not limited to, such factors as the trade area of the community and travel time from various parts thereof to the proposed site; general development trends and anticipated population changes; economic trends and disposable income characteristics; expected sales volumes of the establishment as indicated by the demand for certain types of retail merchandise; existing or anticipated competing commercial facilities; and other data and analysis which relate to the need for and feasible success and stability of the proposed establishment.
 2. A traffic survey appropriate to the scale of the anticipated use prepared by a qualified person indicating the effects of the proposed establishment on adjacent streets and also indicating the anticipated points of origin, direction, and amount of traffic flow to and from the proposed establishment.
 3. A statement of financial responsibility to assure construction of the proposed development in accordance with the site plan and the requirements of this section.
- C. Site development standards.
1. Except as noted in §607.B., all site plans submitted for approval to the Planning Commission shall meet the requirements of §607.D., of this Code and the following:
 - a. The parking of customers' and employees' automobiles;
 - b. The loading and unloading of commercial vehicles, which must take place directly into or out of a building;

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- c. Temporary events or other supplemental sales provided that they are conducted in spaces designated for such possible purposes on the approved site plan and that such temporary events and supplemental sales meet all other requirements of this Zoning Code.
2. Parking areas and circulation. All off-street parking areas and interior circulation for motor vehicles shall be designed in accordance with §530., of this Code and the following requirements:
 - a. Motor vehicle and pedestrian traffic shall be separated to the fullest possible extent;
 - b. Motor vehicle circulation design shall provide for access to parking areas in such a way that there shall be no backing up to traffic into any public road right-of-way;
 - c. All areas accessible to vehicles or pedestrians shall be illuminated;
 - d. The owner and/or developer shall show that all ingress/egress points to external street(s) shall be capable of absorbing the maximum hourly traffic anticipated to be generated by the proposed establishment without undue interference to other traffic on the street(s);
 - e. Whenever possible, the amount of curb cuts and ingress/egress points shall be kept to a minimum and a link with adjacent parking lots and/or shared parking areas that will serve neighboring buildings shall be utilized;
 - f. Surface improvements. All areas accessible to vehicles shall be paved and maintained so as to provide a permanent, durable, and dustless surface and shall be so graded and provided with adequate storm water drainage facilities that all collected surface water is effectively retained on site or properly carried away from the site by storm sewer system designed and constructed in accordance with the Village of Elk Rapids Infrastructure Standard Specifications and Details Manual.
3. Structure location. Structure(s) shall be located as near to the front yard minimum setback line as possible to promote off-street parking to be located in the rear of the site.
4. Signage. All signage shall conform to the provisions of §529., of this Code with the following exceptions:

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- a. Signs located on any building facade shall be compatible with the building's overall design. As an integral design element, signs shall be compatible with the style of the building(s) in terms of location, scale, color and lettering;
 - b. The location(s) for signs on a building(s) facade shall be planned for as part of the overall design;
 - c. Signs located on facades should integrate similar or complimentary materials as the building.
5. Lighting. All outdoor lighting shall be in accordance with §527., of this Code and shall be accomplished in such a manner that no illumination sources are visible outside the property boundary lines, are downcast and are shielded to promote "Dark Sky" standards.
6. Transition strips. All proposed development under this section, when located adjacent to a residential zoning district, shall include as an integral part of the site development, a strip of land 20 feet or more in width on all sides of the site except on the side fronting on a major thoroughfare. Ten feet of the transition strip width on the interior side may be used as part of the parking area. Except for the part that may be occupied by the parking area, the transition strip shall contain only plantings, grass, landscape materials or fencing, used separately or in combination, sufficient to achieve adequate protection for the use and enjoyment of neighboring properties.

(Ord. passed 3-2-15)

§477. EATING AND DRINKING PLACES GREATER THAN 3,000 SQUARE FEET GROSS FLOOR AREA.

- A. All such facilities for uses covered under this section shall meet the requirements of §476., and the requirements of this section.
- B. Uses covered under this section shall be carried on in completely enclosed building(s) except as noted below.
- C. If alcoholic beverages are to be served, all State of Michigan Liquor Control Commission licensing regulations are to be met. Approval of a special use permit shall be conditioned upon receipt of a copy of the approved L.C.C. License being provided to the village. Any outside area where alcoholic beverages are to be served shall be identified on the site plan and such outside area shall be defined through the use of fencing as agreed upon by the developer and the Planning Commission. In addition, no alcoholic beverages may leave the premises or be allowed beyond the outside area defined on the approved site plan.

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- D. Tables and chairs may not be placed on public sidewalks or within any public right-of-way.
(Ord. passed 3-2-15)

§478. – §499. Reserved

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CHAPTER 500 – SITE DEVELOPMENT STANDARDS

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CHAPTER 500 – SITE DEVELOPMENT STANDARDS

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§500. GENERAL SITE DEVELOPMENT STANDARDS

§501. ACCESS TO PUBLIC ROAD OR WAY.

- A. In any zoning district, every use, building or structure established after the effective date of this Zoning Code shall be on a lot or parcel that fronts upon either a public road right-of-way or a private road easement held in common by all property owners abutting.
(Ord. passed 3-2-15)

§502. MINIMUM DIMENSIONAL REQUIREMENTS.

- A. Subject to the provisions of §606, Planned Unit Development, all lots in the various zoning districts shall meet the dimensional requirements indicated in §534, below. Signs shall meet the dimensional requirements of §529, below.
(Ord. passed 3-2-15)

§503. DWELLINGS LOCATED ON LOTS OR PREMISES.

- A. Every dwelling or mobile home erected outside of a mobile home park shall be located on a lot or premises, and no more than one such building or structure shall be erected on such lot or premises, provided, however, that an additional dwelling may be constructed on a single lot, provided that the lot has sufficient frontage at the building line and land area to accommodate the additional dwelling in accordance with the required provisions of §534.
(Ord. passed 3-16-15)

§504. MINIMUM DIMENSIONAL AND CODE REQUIREMENTS.

- A. A single-family dwelling subject to the minimum requirements set forth in §534 below, including a mobile home, shall have a minimum average elevation or cross-sectional structure width of 24 feet over 75% of the entire structure length and the entire structure width, for all structure elevations or cross sections. The dwelling shall comply in all respects with the structure code enforced by the county. The width and length shall be treated separately for computation purposes.
(Ord. passed 3-2-15)

§505. CELLAR AS DWELLING.

- A. No cellar structure shall be used for human occupancy unless a completed story is situated immediately above the cellar structure and is used as a dwelling, except underground homes designed and built in accordance with recognized codes and standards for this type of construction.
(Ord. passed 3-2-15)

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§506. DAMAGED BUILDINGS.

- A. Any building that has been partially destroyed by fire or is in such a state of disrepair as to be uninhabitable and a hazard to the public health and safety shall either be entirely removed or repaired within 12 months from the date of the occurrence of the damage.

(Ord. passed 3-2-15)

§507. NO ACCESSORY STRUCTURES WITHOUT A PRINCIPAL USE STRUCTURE.

- A. No construction of an accessory use structure shall be permitted without a principal use structure; however, an accessory structure may be constructed on a separate lot or parcel, provided that the separate lot is immediately adjacent to the lot on which the principal use structure is located, and further provided that a restriction is recorded with the Antrim County Register of Deeds which states that the two lots shall not thereafter be sold separately.
- B. The Zoning Compliance Permit shall also condition the building of such structures upon the recording of the restriction that the lots upon which the principal use structure and accessory use structure may thereafter not be sold separately.
- C. For the purposes of this section only, the above use of the words “immediately adjacent” shall not deter the application of two or more lots being considered as one unit if the immediate adjacent lot(s) is separated by a road right-of-way easement or dedication. However, the square footage of the accessory structure lot(s) shall not be used to meet the minimum square footage requirement for the lot upon which the principal use structure is located.

(Ord. passed 3-16-15)

§508. ACCESSORY BUILDING AS DWELLING.

- A. No accessory building or structure on the same lot with a principal building shall be used for dwelling purposes, except as specifically permitted in this Code.

(Ord. passed 3-2-15)

§509. MAXIMUM SIZE OF ACCESSORY STRUCTURES.

- A. The total ground level gross square footage of all accessory structures on any single lot or parcel shall not exceed the first floor gross square footage of the principal residence on such lot or parcel exclusive of attached accessory structures. (See §512., below)

(Ord. passed 3-2-15)

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§510. STRUCTURE HEIGHT LIMITATIONS.

- A. Subject to the remaining provisions of this section, structure height limitations in the various zoning districts shall be as indicated in §534.
- B. Subject to §510.C., below, the following features are exempt from the district height limitations set forth in §510.A., above: flagpoles, water towers, and other similar free-standing devices.
- C. Chimneys, church spires, elevator shafts, heating and air conditioning equipment, solar collectors and similar equipment, and fixtures and devices not intended as places of occupancy or storage are exempt from the district height limitations set forth in §534., if they conform to the following requirements:
 - 1. Not more than 10% of the total roof area may be consumed by the features set forth in this section.
 - 2. The features set forth in this section must be set back from the edge of the roof a minimum distance of one foot for every foot by which such features extend above the roof surface of the principal structure to which they are attached.

(Ord. passed 3-2-15)

§511. PRINCIPAL STRUCTURE SETBACK REQUIREMENTS.

- A. No structure shall be located on a lot other than that authorized in §534, below. For the purposes of this section, measurement from the Building Setback Line shall be to the building wall or any extension thereof. A maximum 18" roof overhang or eave, excluding gutters and downspouts, shall be allowed within the Building Setback Line.
- B. The minimum front yard setback for any lot or parcel within the R-2 or R-3 Residential District shall be within four (4) feet of the average setback of principal buildings on the same side of the street on the same face block, but no closer than twelve (12) feet from the front property line.
- C. Unless otherwise provided in this Zoning Code, the required setback distance shall be measured from the public right-of-way line, if the right-of-way line is readily determinable by means of a recorded map and set irons. If the right-of-way line is not so determinable, the setback shall be measured from the actual centerline of the traveled surface of the roadway, adding one-half of the public right-of-way width to the yard setback requirement in §534, below.

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- D. Structures located on Corner or through lots shall observe the minimum required front yard setback from all street frontages. For such situations, side yard setback requirements shall apply to those lot lines that are not street frontages.

(Ord. passed 3-2-15)

§512. ACCESSORY STRUCTURE SETBACK REQUIREMENTS.

- A. Where an accessory use is attached to the principal structure, the accessory use shall be considered part of the principal structure. A detached accessory structure shall be located at least ten (10) feet from the principal structure.
 - B. Except as noted in §513., below, no accessory structure shall project into any required minimum front yard setback.
 - C. No detached accessory structure shall be located nearer to a side lot line than the permitted distance for the principal structure on the same lot, unless the accessory structure shall be completely to the rear of all portions of the principal structure, in which case it may be located no nearer than five feet to any side lot line.
 - D. No detached accessory structure shall be located nearer than five feet to any rear lot line. No detached accessory structure on a lot bordering a lake or river shall be located nearer to the rear lot line than the rear yard setback established in §515.A., below.
 - E. No accessory structure shall occupy more than 30% of the area of any rear yard.
 - F. Fences shall not be considered accessory structures and are regulated separately by §523., below.
- (Ord. passed 3-2-15)

§513. FRONT YARD SETBACK FOR CERTAIN DECKS.

- A. Decks may be constructed into the required front yard setback, provided that they are no closer than 50 feet to the centerline of the street right-of-way, or permanent access of the lot upon which the principal use is located and further that the deck does not exceed four inches in height above the finished grade.

(Ord. passed 3-2-15)

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§514. CORNER OR MULTIPLE STREET FRONTAGE LOTS.

- A. Structures located on multiple street frontage lots shall observe the minimum required front yard setback from all streets. For such situations, side yard setback requirements shall apply to those lot lines that are not street frontages.

(Ord. passed 3-2-15)

§515. SETBACKS FROM LAKES, RIVERS, AND STREAMS

- A. Notwithstanding other provisions of this Zoning Code, every structure hereafter erected on a lot having a property line abutting any body of water within the Village shall set back a minimum of 50 feet from the High Water Mark or normal stream bank.
- B. Every parking lot or parking area shall be set back a minimum of 50 feet from the High Water Mark or normal stream bank of any lake, river, stream, or tributary and shall be so constructed that discharges of storm water are routed through swales, vegetated buffer strips, rain gardens, retention and detention basins and other traditional storm water management applications to meet on site storm water management requirements, to decrease runoff velocity and volume, allow for natural infiltration, allow suspended solids to settle, and remove pollutants.
- C. Approved conforming marina uses, as set forth in §455., shall be exempt from this Section.

(Ord. passed 3-2-15)

§516. AMES STREET SUPPLEMENTAL SETBACK.

- A. Notwithstanding other provisions of this Code, the required minimum front yard setback on Ames Street shall be measured at fifty (50) feet from the centerline of the Ames Street right-of-way.

(Ord. passed 3-2-15)

§517. USE OF OPEN YARD SPACE.

- A. No open yard surrounding a dwelling, or a structure used for dwelling purposes, may be used for the location, parking, disposition, storage, deposit, or dismantling in whole or in part of junked vehicles, machinery, second-hand building materials, or other discarded, disused, or rubbish-like materials or structures.

(Ord. passed 3-2-15)

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§518. STORAGE OF RECREATIONAL VEHICLES AND/OR RECREATIONAL UNITS.

- A. The storage of Recreational Vehicles and/or Recreational Units shall be allowed on lots in all zoning districts in accordance with the requirements noted below. For the purposes of this section, two-family dwellings are considered a single-family dwelling.
1. The storage of Recreational Vehicles and/or Recreational Units shall be allowed only on a lot used for a dwelling or a lot adjacent to a dwelling. In addition, the vehicle must be owned by the dwelling occupant.
 2. The storage of Recreational Vehicles and/or Recreational Units shall be allowed as long as they are at least 50 feet from the edge of a road right-of-way, are not in a building side yard setback and are at least five feet from the edge of an alley right-of-way.
 3. Not more than two (2) Recreational Vehicles and/or Recreational Units shall be allowed per single-family dwelling.
- B. No outdoor storage or parking of vehicles or trucks over one-ton rated capacity, or similar heavy equipment or construction equipment, shall be permitted in a yard or on a lot located in any Residential zoning district, other than for the temporary parking of trucks or equipment engaged in construction on the site or being used for pickup or delivery purposes.
(Ord. passed 3-2-15)

§519. LIMITATIONS ON BOAT DOCKAGE AND WATER FRONT RECREATIONAL USE.

- A. Limitation on boat dockage. Not more than one (1) boat dockage shall be allowed per fifty (50) feet of water frontage as measured along the water mark. Boat dockage shall not be enclosed.
- B. Limitation of waterfront recreational use. Not more than one (1) single-family dwelling unit may have the use of the lake frontage per fifty (50) feet thereof as measured along the water's edge. Approved conforming marinas as set forth in §455., shall be exempt from this section.
(Ord. passed 3-2-15)

§520. VISIBILITY AT INTERSECTION.

- A. No fence, wall, hedge, screen, sign, structure, vegetation, or planting shall be higher than three (3) feet above street grade on any Corner Lot or parcel within the triangular area formed by the intersecting street right-of-way lines and straight line joining the two street lines at points which are 30 feet distant from the point of intersection, measured along the street right-of-way lines.
(Ord. passed 3-2-15)

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§521. STREET CLOSURES.

- A. Whenever any street, alley, or other public right-of-way is vacated by official action, the zoning district adjoining each side of such public right-of-way shall automatically be extended to the center of such vacation, and all area included therein shall henceforth be subject to all appropriate regulations of that district within which such area is located.

(Ord. passed 3-2-15)

§522. GREENBELT BUFFER.

- A. Any development within a Commercial or Industrial zoning district, where such property abuts, adjoins or is adjacent to a Residential zoning district, shall include a greenbelt buffer area designed in accordance with the requirements of §528, Landscaping, of this Code. Except as noted below or unless otherwise authorized in this Code, no storage or other related activities, shall be permitted within the required greenbelt buffer.
- B. The greenbelt buffer may be used as part of the commercial or industrial development's storm water management system, provided that retention or detention basins, if utilized, are no closer than five feet from the adjacent residential property and that the slope and depth of the basin is approved by the Planning Commission.

(Ord. passed 3-2-15)

§523. FENCES, WALLS AND SCREENS.

- A. Subject to §512., and §516., no fence, wall (other than necessary retaining wall), vegetation or other screening material, shall be higher than four (4) feet within the limits of a minimum front yard setback.
- B. No fence or wall located within a side or rear yard shall exceed six and one-half feet in height.

(Ord. passed 3-2-15)

§524. GRADE LEVELS.

- A. All structures within any zoning district shall, subsequent to the adoption of this section, conform to all established and/or determined finished grade levels.
- B. In areas where there are two or more dwellings, buildings, or other structures within 300 feet on the same road, and on the same side of the road, the average of the finished grade level thereof shall determine the finished grade level for the area. In all areas where no finished grade level has been determined or established by dwellings or other structures thereon, a finished grade level of parcels within 300 feet of the subject parcel, on the same street and the

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same side of the street shall be determined by a licensed registered land surveyor. A copy of the Certificate of Survey shall be submitted to the Planning and Zoning Administrator for review and approval.

(Ord. passed 3-2-15)

§525. SUPPLEMENTAL UTILITY REQUIREMENTS FOR THE B-2 CENTRAL BUSINESS DISTRICT.

- A. Notwithstanding other provisions of this Code, new construction within the B-2, Central Business District, shall have all utility service lines including, but not limited to, telephone, electric, cable, water, sewer, gas and the like, buried underground.

(Ord. passed 3-2-15)

§526. OUTDOOR WOOD-FIRED BOILERS.

- A. Purpose: The purpose of this Section is to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Village of Elk Rapids by regulating the air pollution and other potential hazards of Outdoor Wood-Fired Boilers.
- B. Findings: Research summarized in several publications, including but not limited to United States Environmental Protection Agency (EPA) reports, indicates that there exist certain potentially severe negative health effects of Wood-fired boiler emissions on humans when such boilers are installed and used in non-rural settings. At this time, there is no applicable and mandated state or federal standards for determining which, if any, Wood-fired Boilers would not produce such likely and unacceptable risks to humans if used with the Village.
- C. "Outdoor Wood-Fired Boiler" shall mean, but not necessarily be limited to, a wood-fired boiler, stove, furnace or wood-fired hydronic heater that is not located within a building intended for habitation by humans or domestic animals.
- D. Except as noted in §526.G., below, no Outdoor Wood-Fired Boiler shall be installed or used in the Village of Elk Rapids.
- E. Applicability: This Section does not apply to:
1. Grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
 2. Burning for the purpose of generating heat in a stove, furnace, fireplace or other wood-fired heating device contained within a building used for human or animal habitation.

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3. The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.
- F. Severability: Should any portion of this Code be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected.
- G. Non-Conformity:
1. Unless otherwise specifically provided in this Zoning Code, any existing Outdoor Wood-Fired Boiler that was otherwise lawful as of the date it was constructed may be continued under the following conditions:
 - a. The Wood-Fired Boiler shall burn only clean wood.
 - b. The Wood-Fired Boiler shall not burn construction or other types of refuse.
 - c. The Wood-Fired Boiler shall be maintained and operated in accordance with the manufacturers specifications.
 2. Nothing in this Code shall prevent, subject to the conditions above, the reconstruction, repair, or restoration and the continued use of any non-conforming Outdoor Wood-Fired Boiler lawfully existing as of the date it was constructed.
- H. Enforcement and Penalties:
1. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this ordinance or fails to comply with a duly authorized Order issued pursuant to this Code shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine and penalty defined in §707., of this Zoning Code.
(Ord. passed 3-2-15)

§527. LIGHTING.

- A. Purpose and Intent. The purpose of this Section is to preserve the restful nighttime enjoyment and use of all properties in the Village of Elk Rapids by establishing consistent and reasonable exterior lighting standards. Exterior lighting shall be designed, installed and maintained to control glare and light trespass; and prevent the degradation of the nighttime visual environment. The standards of this Chapter are intended to preserve the general welfare by permitting sufficient, but not excessive lighting for parking areas, walkways, building entrances and common site areas; to minimize the adverse effects of inappropriate lighting; and to provide for the safety and security of people and property within the Village of Elk Rapids.

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- B. Scope. The standards of this section shall apply to all exterior lighting sources; all light sources visible from any road right-of-way; and all development projects subject to Site Plan review and zoning compliance approval, **except** as follows:
1. Residential accessory exterior lighting such as decorative porch lights and/or low level intensity lawn or walkway lighting, and special seasonal lighting such as for holiday decorating.
 2. Lighting for a permitted temporary circus, fair, carnival, or civic use, except that the Planning and Zoning Administrator may impose reasonable restrictions on the use of such lighting where necessary to protect public safety and welfare.
 3. Public street lighting, if determined by the Village Council it is not in the best interest of the public welfare.
 4. Shielded lighting of flags of the United States of America and/or State of Michigan.
 5. Fossil fuel light produced directly or indirectly from the combustion of natural gas or other utility-type fossil fuels (e.g., gas lamps).
 6. Circumstances where federal or state laws, rules or regulations take precedence over the provisions of this section; or where fire, police, emergency, or repair personnel need light for temporary or emergency situations.
- C. General Requirements. The following General Requirements shall apply to all light sources regulated by this section:
1. Fully-shielded. Exterior lighting shall be fully shielded using concealed source fixtures directed downward and away from adjacent lots and road rights-of-way. All exterior light fixtures shall utilize full cutoff housings, louvers, glare shields, reflectors or other measures to prevent off-site glare and light pollution. (see illustration)
 2. Glare and Light Trespass. Exterior lighting shall be designed, constructed, and maintained in a manner that prevents off-site glare, light trespass on neighboring properties, and traffic hazards for motorists.
 3. Lamp Wattage.
 - a. Except as prohibited in §527.6., below, fixtures in parking lots shall use low or high-pressure sodium, metal halide or other similar lamp types with a maximum wattage of 250 watts per fixture up to 20 feet in height above grade.

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- b. Decorative exterior light fixtures or lamps shall be limited to lamps with a maximum foot-candle output wattage equivalent to of 100 watts incandescent per fixture.

4. Intensity.

- a. The maximum intensity of light within any site shall not exceed the following standards:

Light Intensity	Maximum (foot-candles)
At any point within the site	10.0
At any boundary or road right-of-way	0.2

- b. Intensity Level Determination. Exterior lighting intensity levels shall be measured on the horizontal plane at grade level within the site; and on the vertical plane of the lot or road right-of-way boundaries at a height of five (5) feet above grade. Fixture height shall be measured from grade level to the highest point of the light source (see illustration below).

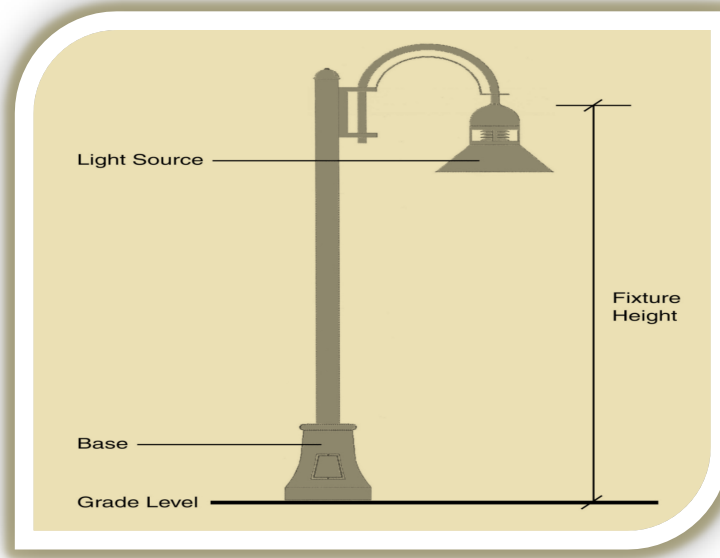
5. Fixture Type Standards. The following standards shall apply to specific types of exterior light fixtures, in addition to the provisions of §527.C., General Requirements, above:

- a. Freestanding Pole Lighting. The maximum height of all freestanding, pole-mounted fixtures shall be determined by the fixture’s proximity to the boundary of a lot or parcel in a Residential zoning district, as follows:

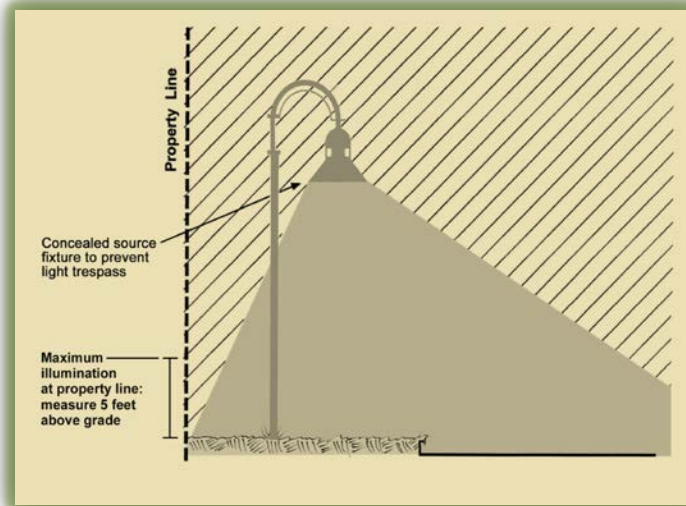
Fixture Location	Maximum Fixture Height
Less than or equal to 50 feet	15 feet
More than 50 feet	20 feet

- b. Architectural Lighting. Exterior illumination of building facades shall be limited to fully shielded fixtures directed toward the building façade. All light from such fixtures shall be concentrated on the wall surface. Luminous tube (neon) and fluorescent lighting shall be prohibited as an architectural detail on the exterior of any structure; including but not limited to rooflines, cornices, eaves, windows, and door openings.

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LIGHT FIXTURE HEIGHT



LIGHT FIXTURE ORIENTATION AND SHADING

6. Prohibited Lighting. The following types of exterior light sources and activities shall be prohibited:
 - a. Mercury Vapor Lighting. The installation of mercury vapor fixtures shall be prohibited.
 - b. Animated Lighting. Lighting shall not be of flashing, moving, or animated type.

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7. Alternative Fixtures, Replacement Or Alteration. Alternative lighting design or specific fixture substitutions may be permitted in accordance with the following requirements:
 - a. Decorative Light Fixtures. The Planning Commission may approve the use of decorative light fixtures as an alternative to fully shielded fixtures, where such fixtures would enhance the aesthetics of the site without causing off-site glare or light trespass.
 - b. Fixture Alteration or Replacement. Light fixtures regulated by this section shall not be altered or replaced unless approved by the Planning and Zoning Administrator after verification that the alteration or substitute fixture conforms to the requirements of this section.

(Ord. passed 3-2-15)

§528. LANDSCAPING.

- A. Intent. The intent of this section for all projects that require a Special Land Use Permit and/or Commercial Site Plan Review is to promote and encourage flexible and creative design, installation, and maintenance provisions for landscaping along public streets, between incompatible land uses, interior site landscaping, and within and around the perimeter of parking areas. Additionally it is intended to provide incentives for the preservation of quality mature trees, improved filtration for maintaining ground water quality, minimize negative impacts of storm water runoff, and improve the function, appearance and value of properties.
- B. Definitions. See Chapter 200, Definitions.
- C. Requirements for Submission and Approval.
 1. Requirements for Submission:
 - a. A “Landscaping Plan” shall be submitted for approval to the Planning Commission for all land uses which require Site Plan Review in accordance with §607., of this Code.
 - b. In addition to the requirements of §607.C., of this Code, the “Landscaping Plan” shall clearly identify existing trees and plant materials to be removed and retained, proposed landscape materials within buffer and landscape areas and typical planting details for trees, shrubs and ground cover within the landscaped areas.

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EXAMPLE "SITE PLAN"

2. Criteria for Approval:

a. No site plan approval will be granted by the Planning Commission, and no land use permit shall be issued by the Planning and Zoning Administrator, until the "Landscaping Plan" has received final approval. Approval of the "Landscaping Plan" is conditioned upon satisfaction of the following criteria:

- Agreement by the Owner/Applicant that the required landscaping and buffering improvements shall be completed concurrent with completion of the approved site plan, or as approved in a phased development plan. In the event of unusual delays, or adverse weather conditions that make it impossible to plant, the Planning and Zoning Administrator may grant an extension of the time period to the next appropriate planting season, and;
- All other requirements of this section have been met.

3. General Landscape Provisions.

a. Landscape and perimeter buffer areas shall be provided in accordance with this section and completed in accordance with the approved "Landscape Plan". The Planning Commission may waive or modify provisions herein based on their determination that special circumstances exist.

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- b. Except for specific signage that shall meet the requirements of §529., no structure shall be permitted in the required landscaped areas other than as defined in Chapter 200, of this Code.
 - c. Plantings within four (4) feet of a fire hydrant shall be no taller than twenty-four (24) inches at maturity.
 - d. Responsibility for landscaping and buffering installation shall be that of the owner or authorized representative of the owner who is in control of the development of the site. It shall be the owner's responsibility to see that the landscaping is maintained in a neat, clean, orderly, and healthful condition. This includes, among other things, proper pruning, mowing of lawns, weed control, removal of litter, replacement of plants when necessary, and the regular watering of all plants.
4. Landscape Plant Material.
- a. Plant Materials: It is the intent of this Section to encourage thoughtful, environmentally sensitive, and bio-diverse nature of the mixture of plantings, including those plantings native to the northwest Michigan region, and to discourage the use of invasive plant materials during the landscape design process. In order to meet this intent, the Village of Elk Rapids will utilize the "Recommended Planting Guidelines for Municipalities", as published by the Northwest Michigan Invasive Species Network, as may be amended from time to time, to determine what plant materials shall be considered "native species" from "invasive species".
 - b. Plant Quality: All plant materials shall be of nursery quality, obtained from a licensed grower, hardy to the climate of northern Michigan, and free of disease and insects.
 - c. Plant Mixture: The overall landscape plan should promote a mixture of native species plant materials as described below.
 - d. Approved "Native Species" planting materials: The following "native species" plant materials may be used for landscape purposes. Additional selections of "native species" planting materials may be found under "Recommended Plants for Ornamental Landscapes" within the "Recommended Planting Guidelines for Municipalities", noted above:
 - Trees: Balsam fir, Sugar Maple, Shadlow Serviceberry, River Birch, Musclewood, Eastern Larch Tamarack, Ironwood, Horizontal Dogwood, Red Pine, White Pine, Black Cherry, White Oak, Northern Pin Oak, Northern Red Oak, Northern White Cedar, Eastern Hemlock, and Pear.

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- **Shrubbery:** Round-leaved Serviceberry, Black Chokecherry, New Jersey Tea, Buttonbush, Alternate-leaf Dogwood, Silky Dogwood, Red-osier Dogwood, Michigan Holly, Meadowsweet, and Nine Bark.
 - **Ground Cover:** Spreading Juniper, Wild Strawberry, Little Blue Stem Grass.
 - e. **Prohibited Plant Materials:** “Invasive species” planting materials listed under “Commercial Guidelines”, as Class 1 and Class 2 Plants, within the “Recommended Planting Guidelines for Municipalities”, noted above, shall not be used for landscaping purposes under any circumstances.
5. **Landscaping Along Public Roads.**
- a. With the exception of the Central Business District (CBD) and the Mobile Home District (RM-MH), a greenbelt buffer meeting the following provisions are required on all land abutting Village public road rights-of-way.
 - b. Minimum width of six (6) feet for the entire length of the roadway frontage, minus ingress and egress driveways.
 - c. The Planning Commission may approve greenbelt buffers containing a selected combination of living deciduous and evergreen trees, shrubs, flowers, grasses, vines, ground cover, native plantings or decorative fencing so arranged to present an aesthetically pleasing appearance that meets the intent of this Code.

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EXAMPLE PERIMETER LANDSCAPE BUFFER
ALONG PUBLIC ROAD RIGHT-OF-WAY

6. Landscaping Between Residential and Non-Residential Uses and Between Multi-Family and Single Family Uses.

- a. In addition to §528.C.5., above, a greenbelt buffer meeting the following provisions are required along the perimeter side and rear lot lines between residential and non-residential uses and between multi-family and single family uses:
- Minimum width of ten (10) feet for the entire length of the side and rear lot lines.
 - The buffer shall be used solely for landscaping, screening, and/or storm water drainage as provided herein.
 - The Planning Commission may approve perimeter landscape greenbelt buffer areas containing a selected combination of earth mounds, ground cover, decorative fences, evergreen and deciduous plant materials, sufficient to provide views screened of vehicular use areas.
 - All trees shall be evergreens a minimum eight (8) feet high at planting

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EXAMPLE SIDE/REAR PERIMETER LANDSCAPE SCREENING BUFFER

7. Interior Site Landscaping.

- a. For every new development, except in the Central Business District (CBD) or Mobile Home (RM-MH) District, there shall be interior landscaping areas exclusive of any other required landscaping, consisting of at least ten percent (10%) of the total lot area. This landscaped area should be concentrated groupings near building entrances, along the perimeter of building foundations, along pedestrian walkways and along service areas.
- b. The Planning Commission may approve interior site landscaping area plantings containing a selected combination of living deciduous and evergreen trees, shrubs, flowers, grasses, vines, ground covers, native plantings or decorative fencing so arranged to present an aesthetically pleasing appearance that meets the intent of this Code.

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EXAMPLE INTERIOR SITE LANDSCAPING AREAS

8. Parking Lot Landscaping.

a. Landscaping along public road rights-of-way:

- All outdoor off-street parking areas that contain five (5) or more parking spaces shall provide a perimeter landscape buffer along those property boundaries where the parking lot abuts or adjoins a public road, street or highway in accordance with §528.C.5., above.

b. Landscaping between residential and non-residential uses and between multi-family and single family uses:

- All outdoor off-street parking areas that contain five (5) or more parking spaces shall provide a perimeter landscape buffer along those side and rear property boundaries where the parking lot abuts or adjoins residential and non-residential uses and between multi-family and single family uses in accordance with §528.C.6., above.

9. Interior parking lot landscaping: Interior landscaping areas, defined herein as the area within the perimeter of the parking lot paved surface in addition to perimeter landscaping or buffering requirements, shall be provided for parking areas containing 6,000 square feet or more of paved area; ten (10) vehicular parking spaces or more; or more than two parking aisles, in accordance with the following requirements:

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- a. A minimum of ten (10) square feet of interior landscaping area for each parking space shall be required.
- b. Landscaped areas shall be a minimum of 75 square feet with a minimum dimension of eight (8) feet. Interior landscape areas shall be designed so as to create minimum interference with snow removal.
- c. The Planning Commission may approve alternative selected combination of living deciduous trees, shrubs, grasses, flowers, ground cover, native plantings or vines so arranged to present an aesthetically pleasing appearance that meets the intent of this ordinance.



EXAMPLE INTERIOR PARKING LOT LANDS

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10. Waste Receptacle and Mechanical Equipment Screening.

- a. Waste receptacles and mechanical equipment shall be located and screened from view with fencing, walls or plant materials or combination of these, as approved by the Planning Commission, sufficient to provide views screened of these use areas.



EXAMPLE WASTE RECEPTACLE SCREENING

(Ord. passed 3-2-15)

§529. SIGNAGE.

A. PURPOSE.

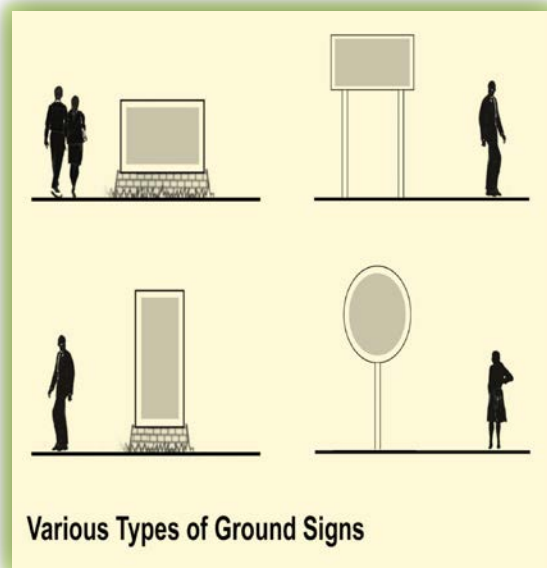
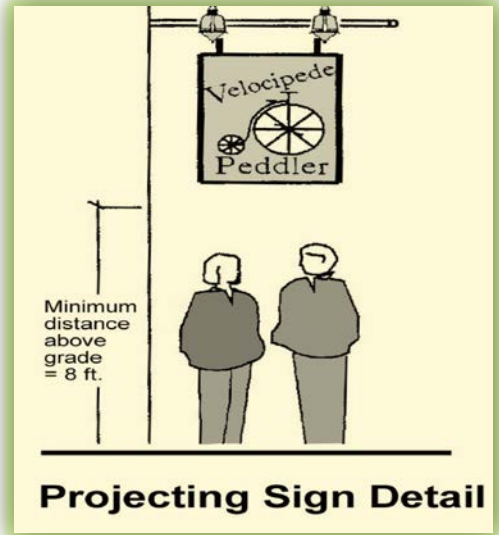
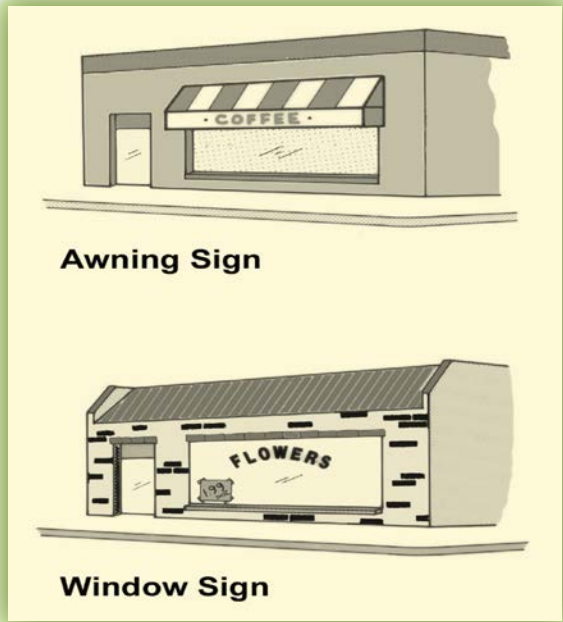
1. The purpose of this section is to provide for the regulation of advertising and outdoor signs of all types in a manner which does not significantly restrict the content thereof, while:
 - a. Recognizing the mass communications needs of all parties;
 - b. Protecting property values, enhancing the physical appearance of the Village, and preserving neighborhood character;
 - c. Creating a more attractive business climate by encouraging compatible designs within given areas;
 - d. Promoting pedestrian and traffic safety by reducing sign obstructions and other hazards; and,

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- e. Promoting community environmental and aesthetic values.
 - 2. Window signs visible from the outdoors are not regulated by this section.
 - 3. Compliance with this Zoning Code does not assure compliance with other county, state, or federal sign regulations, nor does the issuance of a Sign Permit grant permission to the applicant to place signs on any property including road rights-of-way other than property owned or otherwise legally under the control of the applicant. The issuance of a Sign Permit only assures the applicant that the sign meets the requirements of this Zoning Code.
- B. DEFINITIONS RELATED TO SIGNS. See Chapter 200, Definitions.

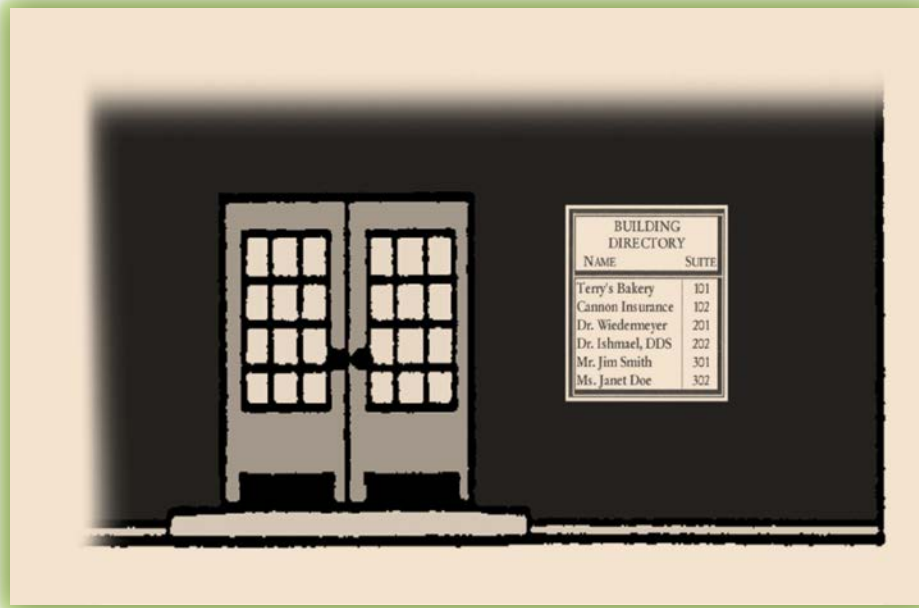
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SIGN ILLUSTRATIONS

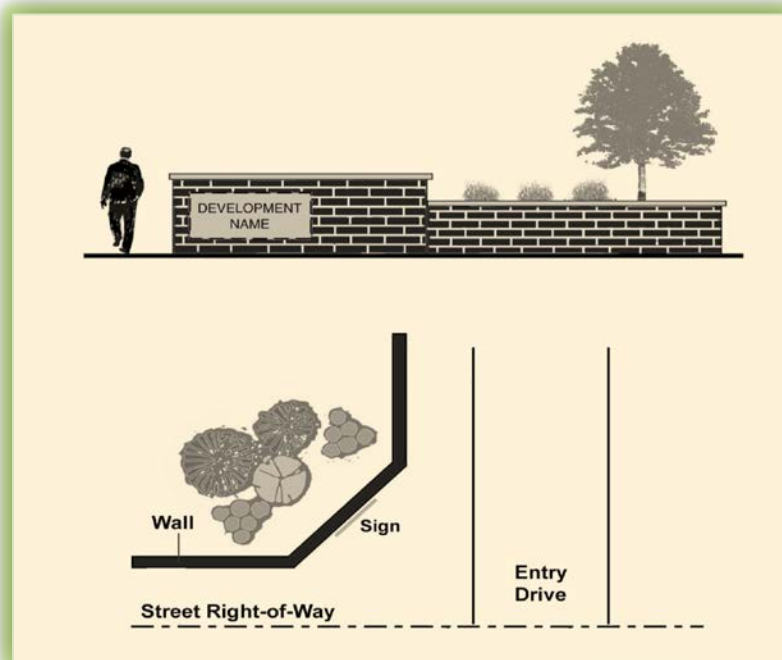


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SIGN ILLUSTRATIONS



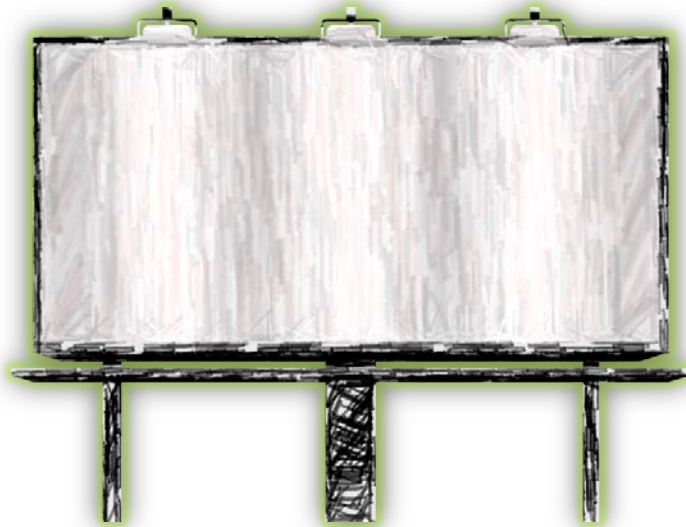
WALL SIGN



SUB-DIVISION SIGN

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SIGN ILLUSTRATIONS



BILLBOARD



SIGNABLE AREA

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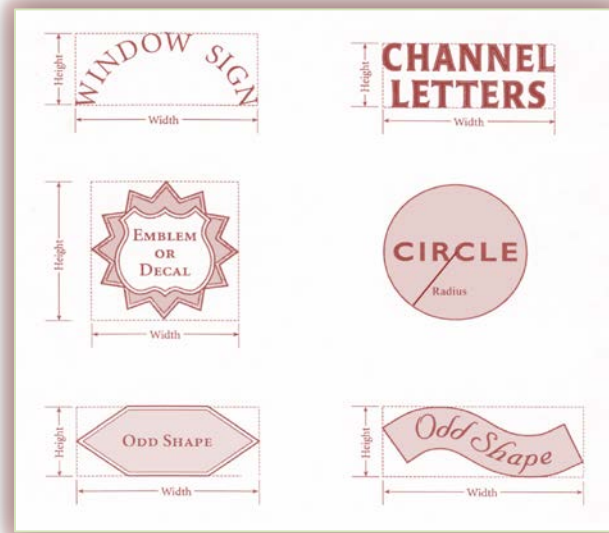
C. DETERMINATION OF NUMBER OF SIGNS.

1. For the purpose of determining the number of signs, a sign shall be considered a single sign when the display surface or display device containing elements is organized, related, and composed to form a unit. Where elements are displayed in a random manner without organized relationship, each element shall be considered a single sign.
2. A two-sided or multi-sided sign shall be regarded as one sign so long as:
 - a. With respect to a V-type sign, the two sides are at no point separated by a distance that exceeds five feet: and
 - b. With respect to double faced (back to back) signs, the distance between the backs of each face of the sign does not exceed three feet.

D. COMPUTATION OF SIGN FACE AREA.

1. The sign face area shall be computed by including the entire area within a single, continuous perimeter of not more than eight straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.
2. If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign face area.
3. With respect to two-sided, multi-sided or three-dimensional signs, the sign face area shall be computed by including the total of all sides designed to attract attention or communicate information. Without otherwise limiting the generality of the foregoing:
 - a. The sign face of a double-faced, back-to-back sign shall be calculated by using the area of only one side of such sign, so long as the distance between the backs of such signs does not exceed three feet.
 - b. The sign face area of a double faced sign constructed in the form of a "V" shall be calculated by using the area of only one side of such sign (the larger side if there is a size difference), so long as the interior angle of the "V" does not exceed 30° and no point does the distance between the backs of such sides exceed five feet.

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COMPUTATION OF SIGN FACE AREA

E. **PROHIBITED SIGNS.** The following signs shall not be allowed in any district and shall be considered a violation of this Code:

1. Signs which are not consistent with the standards of this Zoning Code.
2. Signs that are not legible, safe, and/or securely affixed to the support structure.
3. Signs which appear to attempt to regulate, warn, or direct the movement of traffic on public thoroughfares or which interface with or resemble any official traffic sign, signal, or device.
4. Commercial advertising flags, and all types of banners, pennants, streamers, and devices attached to the ground or buildings, excepting those banners and commercial advertising flags approved under §529.F., below.
5. Revolving, moving, or flashing signs.
6. Signs other than utility company signs affixed to power utility poles or other utility structures or fixtures.
7. Signs located so as to interfere with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

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8. Signs which do not relate to an existing business or product or service.
 9. Signs which are illegal under state laws or regulations and applicable local ordinance or regulations.
 10. Signs, except those established, maintained or approved by municipal, county, state, or federal governments, located in, projecting into, or overhead within a public right-of-way or dedicated public easement.
 11. Signs that project above the maximum height limitations of the zoning district in which it is located.
 12. Ground signs in excess of 10 feet in height with the exception of Billboards as defined in §529.H., Footnote 17, below.
 13. Roof signs.
 14. Off-premise signs that are not allowed in other sections of this ordinance.
 15. Off-premise signs that do not relate to activities in, or information about property, in the Village of Elk Rapids.
- F. SIGNS EXCLUDED FROM SIGN PERMIT. The following signs are permitted without a Sign Permit but shall conform to the requirements set forth herein as well as all other applicable requirements of this section:
1. Signs not exceeding six square feet in area that are associated with residential use and that are strictly not of a commercial nature, such as signs giving property identification names or numbers or names of occupants, signs on mailboxes or newspaper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
 2. Signs erected by, on behalf of, or pursuant to the authorization of a governmental body, including legal notices, identification, and information signs or historical markers and traffic, directional, and regulatory signs. Off-premise signs of a non-commercial nature, determined to benefit the community and are related to church, non-profit organization and civic group, may be allowed by special approval of the Village Council.
 3. Official signs of a non-commercial nature erected by public utilities.

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4. Flags or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising service.
5. Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
6. Signs directing and guiding traffic on private property that do not exceed four square feet each and that bear no advertising matter.
7. Information signs of a non-commercial nature not exceeding one square foot in sign face area.
8. Automobile gasoline service stations, including any business selling gasoline, in addition to the principal signs, may attach two other signs, not exceeding 15 square feet in display area, per side, to the column(s) of the sign advertising the price of gasoline or other accessory product sold on the premises, including the advertising of accepted credit cards.
9. Subject to the requirements of §F.12.d., below, one banner or commercial advertising banner or flag.
10. Street name signs located in accordance with village standards at street intersections, not to exceed one square foot in sign face.
11. One church announcement or bulletin board sign with a maximum size of 25 square feet, a maximum height of 6 feet and a minimum setback of 10 feet from the edge of right-of-way.
12. Temporary signs that conform to the following requirements as well as all other applicable requirements of this section:
 - a. Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Not more than one such sign shall be erected per site. Signs shall not exceed 12 square feet in sign face area in commercial zones or six square feet in sign face area in residential zones and shall be removed within ten days after sale, lease or rental. However, a second sign may be erected on a site having a street frontage width of 660 feet or more as long as the second sign shall not exceed 12 square feet in sign face area and shall be removed within ten days after sale, lease or rental. Off premise, directional type or "For Sale" signage is prohibited. One off premise "Open House" sign shall be allowed with a maximum sign face area of four square feet. Such sign shall be displayed only during the hours of the open house.

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- b. Construction site signs. Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information, including but not limited to sale or leasing information. Not more than one such sign, not exceeding 12 square feet in sign face area, shall be erected per site. In the place of one large sign, up to four individual smaller signs may be erected on the site, upon the condition that each such smaller sign shall not exceed four square feet in sign face area per sign. All such signs shall be removed not later than three days after completion of individual sub-contractor work or demobilization of all construction equipment, whichever occurs first.
- c. Signs erected in connection with elections or political campaigns. Such signs shall be removed within three days following the election or conclusion of the campaign. No such sign may exceed four square feet in sign face area in a residential district or 16 square feet in sign face area in a commercial or industrial district.
- d. Signs, banners and commercial advertising flags erected in connection with any temporary event are subject to the following requirements:
- Not more than one such sign, banner or commercial advertising flag may be located on any single lot of record.
 - No such sign, banner or commercial advertising flag may exceed 24 square feet in sign face area.
 - No sign, banner or commercial advertising flag shall be erected and/or displayed more than three days prior to the starting date of a special event and not more than three days after the end of the event. Such signs, banners or commercial advertising flags shall not be displayed longer than 30 consecutive days. The same signs, banners or advertising flags shall not be erected and/or displayed more than three times per calendar year.
- e. Signs for yard sales, estate or auction sales or other similar temporary activity signs not covered in the foregoing categories, so long as such signs meet the following restriction:
- Not more than one such sign may be located on any lot. Not more than one off-premise sign shall be allowed.
 - No such sign may exceed four square feet in sign face area.

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- Such signs shall be allowed to be displayed only on the days of the event (not to exceed three days) and shall be removed immediately following the event.
 - f. Special event off-premise signs that are determined to benefit the community and are not related to a specific individual business may be allowed by special approval of the Village Council.
 - g. Other temporary signs, not listed in §529.12., above, of this section, shall be regarded and treated in all respects as permanent signs.
 - h. The Village may remove without notice any Temporary Sign determined by the Planning and Zoning Administrator to be in violation of this Code. A removed sign will be held for seven (7) calendar days, after which it may be discarded.
- G. SIGN PERMIT REQUIRED.
1. Except as otherwise provided in §529.F., above, no sign may be constructed, erected, moved, enlarged, illuminated, or altered unless a Sign Permit has been issued in accordance with the provisions of this Code. Repainting shall not be considered an alteration.
- H. ALLOWED SIGNAGE TABLES. The tables set forth in this section summarize the signage allowed by this Zoning Code for each category of land use. To use the tables, refer to the Key to Tables and related footnotes set forth in this section.

Key to Tables:

The signage is indicated thus N/A/S/(F), where:

- N = Number of signs allowed on a single lot of record.
- A = Sign face area allowed, in square feet.
- S – Setback requirement, in feet.
- F = Related footnote that pertains to this type of sign.

Abbreviations used:

- V- Used in place of N to indicate that a variable number of signs are allowed.
- Ea. - Used with A to indicate the maximum Sign face Area permitted for per sign where multiple signs are allowed.
- T - Used with A to indicate the total Sign Face Area for all signs in the category.

Where no information is presented on the allowed signage tables for the type of sign listed, that sign in that zoning district is prohibited.

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SIGNS REQUIRING PERMIT												
Zoning District	Awning Sign	Billboard	Business Center Sign	Changeable Copy Sign	Electric Message Sign	Ground Sign	Home Occupation Sign	Identification Sign	Marquee Sign	Portable Sign	Projecting Sign	Wall Sign
R-1, R-2, R-3 Residential							1/3/na (1)					1/3/na (1)
RM-L, RM-H Multi-Residential							1/3/na (1)	1/6/0 (6)				1/3/na (1)
RM-MH Mobile Home							1/3/na (1)	1/6/0 (6)				
B-1, Local Business	v/7%/na (9)		1/40/10 (13)	1/20/10 (13)	1/20/10 (13)	1/20/10 (13)	1/3/na (1)		v/20%/na (8)	v/6/0 (16)	v/6/na (15)	v/7%/na (1)(12)
B-2, Central Business District	v/7%/na (9)						1/3/na (1)		v/20%/na (8)	v/6/0 (16)	v/6/na (15)	v/7%/na (1)(12)
B-3, Commercial Business	v/7%/na (9)		1/40/10 (13)	1/20/10 (13)	1/20/10 (13)	1/32/10 (13)	1/3/na (1)	1/6/0 (6)	v/20%/na (8)	v/6/0 (16)	v/6/na (15)	v/7%/na (1)(12)
I-1, Industrial	v/7%/na (9)	1/100/30 (17)	1/40/10 (13)	1/20/10 (13)	1/20/10 (13)	1/32/10 (13)		1/6/0 (6)	v/20%/na (8)	v/6/0 (16)	v/6/na (15)	v/7%/na (1)(12)
P-1, Public	v/7%/na (9)			1/20/10 (13)	1/20/10 (13)	1/32/10 (13)				v/6/0 (16)	v/6/na (15)	v/7%/na (1)(12)

SIGNS NOT REQUIRING PERMIT									
Zoning District	Banner	Commercial Advertising Sign	Construction Sign	Information Sign	Flag/Pennant	Garage Sale Sign	Political Sign	Real Estate Sign	Temporary Event Sign
R-1, R-2, R 3 Residential			1/12/5 (2)		v/v	1/4/5 (3)	v/4/0 (11)	1/6/5 (5)	
RM-L, RM-H Multi-Residential			1/12/5 (2)		v/v	1/4/5 (3)	v/4/0 (11)	1/6/0 (6)	
RM-MH Mobile Home			1/12/5 (2)		v/v	1/4/5 (3)	v/4/0 (11)	1/6/0 (6)	
B-1, Local Business	1/24/10 (7)	1/24/10 (7)	1/12/5 (2)	v/1/na/(4)	v/v	1/4/5 (3)	v/16/0 (11)	1/12/5 (5)	1/24/10 (10)
B-2, Central Business District	1/24/10 (7)	1/24/10 (7)	1/12/5 (2)	v/1/na/(4)	v/v	1/4/5 (3)	v/16/0 (11)	1/12/5 (5)	1/24/10 (10)
B-3, Commercial Business	1/24/10 (7)	1/24/10 (7)	1/12/5 (2)	v/1/na/(4)	v/v	1/4/5 (3)	v/16/0 (11)	1/12/5 (5)	1/24/10 (10)
I-1, Industrial	1/24/10 (7)	1/24/10 (7)	1/12/5 (2)	v/1/na/(4)	v/v	1/4/5 (3)	v/16/0 (11)	1/12/5 (5)	1/24/10 (10)
P-1, Public	(14)	(14)	1/12/5 (2)	v/1/na/(4)	v/v	1/4/5 (3)	v/16/0 (11)		1/24/10 (10)

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Footnotes for table are as follows:

1. Shall be attached flat against a building wall.
2. See §529.F.12.b., for specific requirements.
3. See §529.F.12.e., for specific requirements.
4. See §529.F.7., for specific requirements.
5. See §529.F.12.a., for specific requirements.
6. Such sign may be used to identify the offices of the operator of a mobile home park or the management offices of a multiple housing development.
7. See §529.F.12.d.,for specific requirements.
8. Marquee sign shall provide for eight feet of clearance above the finished grade or walkway about the building at the sign location. Marquee sign shall not exceed 20% of wall area to which it is attached as determined by the front elevation of the marquee sign projected against the wall.
9. Awning sign shall not exceed 7% of the area of the awning projected against the wall to which the awning is attached as seen in the front elevation. Total sign face area of all of signage attached to a single wall surface will not exceed 10% of the wall surface to which they are attached.
10. See §529.F.12.d., and §529.F.12.f., for specific requirements.
11. See §529.F.12.c.,for specific requirements.
12. The percentage indicated is the percent of the area of any single front, rear, or in the case of corner lot, side wall of the building. Such signs are only allowed on a wall which faces onto a street or alley. Total signage of wall, projecting, and marquee signs will not exceed 10% of building wall surface to which they are attached.
13. One Ground sign is allowed along each street frontage in the case of lots having frontage on more than one street. One ground sign is allowed per developed legal lot or lot of record, provided that no single business shall have more than one sign per street frontage. Multiple businesses on one or more lots shall utilize a business center sign rather than individual ground signs. Ground signs for Planned Shopping Centers shall be designed as an integral part of the development. Signs identifying individual businesses shall be placed on

VILLAGE OF ELK RAPIDS ZONING CODE

the building or business. Only signs that identify the shopping center and/or are directional in nature shall be allowed adjacent to the public roadway.

14. The use of banners or commercial flags at public facilities shall be as approved by the Village Council.
15. 48 inches maximum horizontally total distance from front of building. Natural wood or natural appearing wood encouraged. Minimum height of 8 feet from bottom of sign to finished grade. One Projecting Sign per commercial entrance.
16. Portable signs are allowed to provide visibility to the merchant or provide current information to the consumer/visitor (such as restaurants "Daily Specials" or menu).
 - Portable signs in the B-2 Central Business District MUST COMPLY WITH THE CENTRAL BUSINESS DISTRICT SIDEWALK OBSTRUCTION ORDINANCE #262.
 - Portable sign permits shall be renewed annually by applications (due May 30th) with fee as set by Village Council Fee Schedule resolution.
 - Portable signs must be taken in during hours of non-operation of the business.
 - Portable sign size is limited to six square feet, with a maximum height of 48" from the ground or sidewalk. Leg length is not part of sign area determination.
 - Portable signs are limited to one per business and must be located on or adjacent to the applicant's business property.
17. Billboard signs shall be placed only in the Industrial zone as allowed by the state Highway Advertising Act of 1972, Act 106 of the Public Acts of 1972, as amended, being M.C.L.A. §§ 252.301 et seq., provided that the signs do not exceed 20 feet in height and meet the front and side yard setback requirements of the zoning district in which they are located.

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I. REQUIRED SIGN SETBACKS AND HEIGHT REQUIREMENTS.

1. Setbacks are subject to the provisions of §501.T., Visibility at Intersections, of this Code. For the purpose of establishing sign setback requirements from an abutting roadway, the below listed types of signs shall observe a front yard setback as follows:

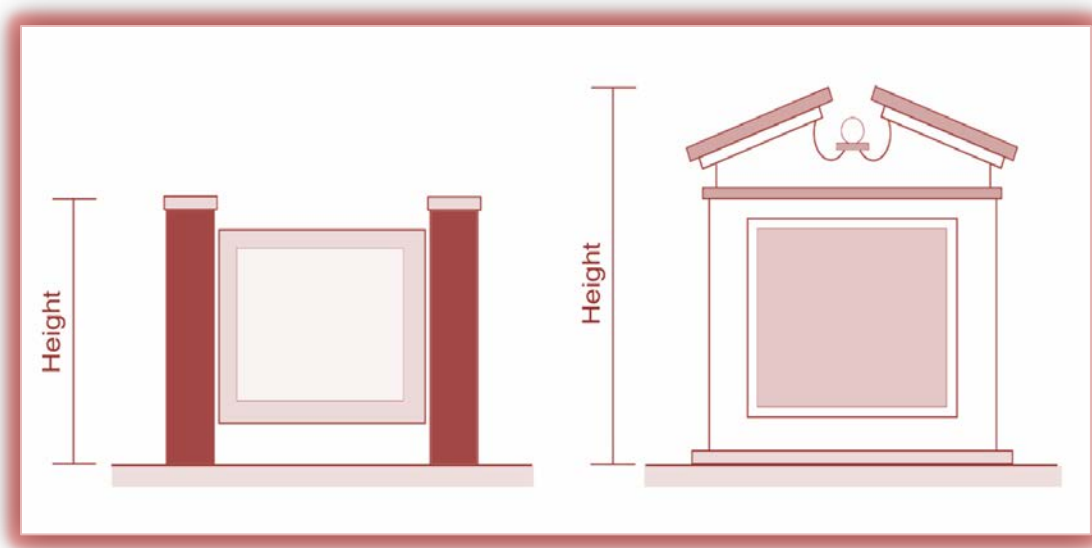
<u>Sign</u>	<u>Feet</u>
Business center	10
Construction Site	10
Entrance Way	0
Ground sign	10
Information	0
Real Estate	5
Section 529.F.1.*	0
Section 529.F.12.c.**	0
Billboard sign	At Front or side yard setback

* Signs allowed by §529.F.1., having to do with mailboxes and newspaper tubes may be allowed in the street right-of-way.

** Political signs as allowed in §529.F.12.c., shall have a zero-foot setback.

2. No wall sign attached to a building may project more than 12 inches from the building wall.
3. With the exception of Billboard signs as defined above, no part of a Ground Sign shall exceed a height of ten feet as measured from the mean elevation immediately beneath the sign.

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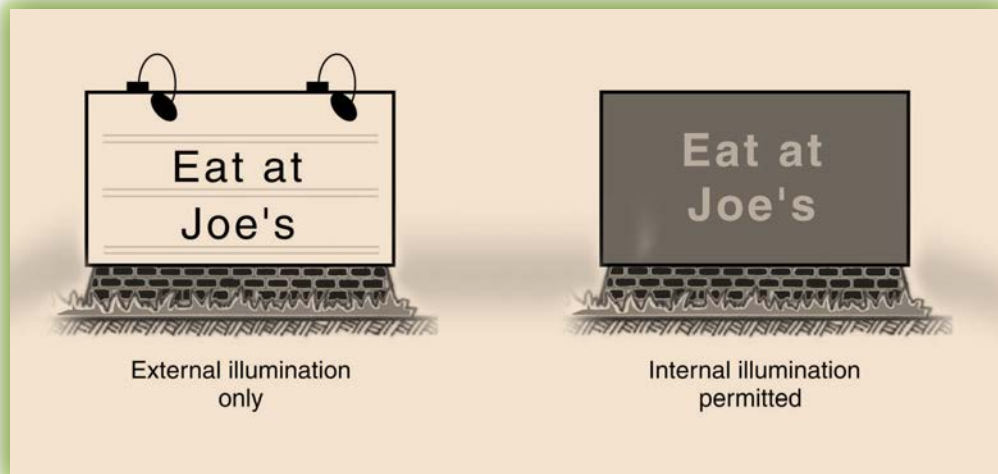


SIGN HEIGHT ILLUSTRATION

J. SIGN ILLUMINATION AND SIGNS CONTAINING LIGHTS.

1. Unless otherwise prohibited by this Zoning Code, signs may be illuminated in accordance with this section.
2. No sign within 150 feet of a residential zone may be illuminated between the hours of midnight and 6:00 a.m.
3. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.
4. Except as herein provided, illuminated signs are not permitted in the residential zoning districts.
5. With the exception of temporary signs erected in connection with or the observance of public or national holidays, illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited; and, no sign may contain or be illuminated by flashing or intermittent lights or lights changing degrees of intensity, except signs indicating the time, date, or weather conditions.
6. Projecting signs cannot be illuminated either internally or externally.

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SIGN ILLUMINATION ILLUSTRATION

K. NON-CONFORMING SIGNS.

1. Subject to the remaining restrictions of this section and other Village ordinances, non-conforming signs that were otherwise lawful under the Zoning Code in effect on the date the sign was installed may be continued.
2. No person may engage in any activity that causes an increase in the extent of nonconformity of a non-conforming sign. Without limiting the generality of the foregoing, no non-conforming sign may be enlarged or altered in such a manner as to increase the non-conforming condition. Nor may illumination be added to any non-conforming sign.
3. A non-conforming sign may not be moved or replaced except to bring the sign into complete conformity with this Zoning Code or as allowed in division K.4., below.
4. If a non-conforming sign is destroyed, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Zoning Code, and the remnants of the former sign structure not usable for a new conforming sign shall be cleared from the land. For purposes of this section, a non-conforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature equals or exceeds the cost to replace the sign so damaged. Detailed written documentation from a recognized professional sign company indicating both the repair and replacement cost of the destroyed sign must be submitted to the Planning and Zoning Administrator for final disposition of the destroyed non-conforming sign.

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5. The message of a non-conforming sign may not be changed for any reason, including but not limited to a change in ownership, text, or graphics, unless the sign is brought into complete conformity with this Code or the sign is one designed for having its event or offering-related messages changed from time to time.
6. Subject to the other provisions of this section, non-conforming signs may be maintained. For the purpose of this section, the re-facing of a non-conforming sign with new, single or multiple, composite material panel(s), shall not be considered "Maintenance" or "Repair", but rather shall be considered a new sign requiring the non-conforming sign be brought into complete compliance with this Code.
7. If a non-conforming sign advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted for a period of 180 consecutive days, that sign shall be considered abandoned and shall be removed by the owner of the sign, the owner of the property where the sign is located, or the party having control over the sign within 30 days after such abandonment.
8. If a non-conforming Billboard sign remains blank for a continuous period of 180 days, and it is determined that the intent is to abandon the sign, that off-premise sign shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this Zoning Code or be removed by the owner of the sign, owner of the property where the sign is located, or the persons having control over such sign. For purposes of this section, a sign is "blank" if:
 - a. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
 - b. The advertising message it displays becomes illegible in whole or in part.
9. The Planning and Zoning Administrator shall keep complete records of all correspondence, communications, and other actions taken with respect to such non-conforming signs.
(Ord. passed 3-2-15)

§530. OFF-STREET PARKING AND LOADING REGULATIONS

- A. PURPOSE. The purpose of this Section is to reduce the number of off-street parking spaces, the amount of impervious surfaces and to encourage the use of alternative pervious surface materials that may be permitted on a parcel of land; to protect water quality and capacity of drainage and storm water management systems; to establish flexible minimum and maximum standards for off-street parking and loading; and to promote the use and development of shared parking facilities.

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- B. SCOPE. With the exception of the B-2, Central Business District, regulations of this Section shall be met when any use is established; any structure is erected, enlarged, or increased in capacity; or any existing use is changed to a different use, expanded, extended, or increased in intensity.
- C. DEFINITIONS. See Chapter 200, Definitions.
- D. STANDARDS FOR PARKING AND LOADING CALCULATIONS. The following standards shall apply to all parking calculations:
1. Multiple or mixed uses. Where more than one (1) principal use exists or is proposed to occupy a site, the parking requirements for each use shall be calculated separately. The total parking obligation for the site shall equal the cumulative total of the parking requirements for the individual uses.
 2. Fractions. When units of measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction shall be counted as one (1) additional space.
 3. Employees. For requirements stated in terms of employees, the calculation shall be based upon the number of employees likely to be on the premises during the largest shift or busiest period of the workday.
 4. Capacity or Permitted Occupancy. For requirements stated in terms of capacity or maximum permitted occupancy, the number shall be determined on the basis of the largest occupancy ratings by the State Construction Code, or applicable local, county or state fire or health codes.
 5. Uses not specifically mentioned. For those uses not specifically mentioned in this Code, the requirements for off-street parking shall be in accordance with a listed use that the Planning and Zoning Administrator deems to be similar in type.
- E. GENERAL REQUIREMENTS. The following requirements shall apply to all off-street parking and loading facilities:
1. There shall be provided in all Zoning Districts, off-street parking space with adequate ingress and egress to all spaces. The minimum number of parking spaces for specific uses of land specified in this Section is based upon consideration of the maximum number of motor vehicles that can be expected on the premises at the same time during an average day.

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2. No parking, loading, unloading, or standing space that exists at the effective date of this Code or is provided for the purpose of complying with this Code shall be relinquished or reduced in any manner below the requirements established in this Code.
3. Off street parking in the R-1, R-2, and R-3, Single Family Residential Districts shall be subject to the following additional requirements:
 - a. The minimum required spaces per §F.3., below, shall be located on the premises of the principal dwelling.
 - b. Such parking shall be provided in an accessory garage, carport, driveway, parking pad or bay, or combination thereof. Parking spaces may be located within a rear or side yard, but, off-street parking shall not be permitted within the front yard setback unless otherwise provided in this Code.
 - c. Parking of motor vehicles accessory to single-family or two-family dwellings shall be limited to passenger vehicles and a maximum of one (1) light commercial vehicle (not to exceed one (1) ton capacity) per dwelling unit.
 - d. The parking of any commercial vehicle exceeding one (1) ton capacity shall be prohibited unless contained within a garage, or effectively screened from adjacent properties.
 - e. Unlicensed or inoperable motor vehicles may not be parked or stored on any premises unless parked or stored within a completely enclosed structure.
4. Off-street parking facilities for other than residential use shall be subject to the following additional requirements:
 - a. The minimum required spaces per §F.3., below, shall be located on the same lot as the principal building or use for which the parking is intended; or on a lot under the same ownership as the principal building; or as otherwise permitted under §F.5., Shared Parking Facilities. Except where otherwise prohibited, on-street parking within 300 feet of the main building, as measured from the property lines containing the main building, may be used to meet the minimum required off-street parking for each specific land use for which the parking is intended.
 - b. No commercial activity or selling of any kind shall be conducted within required parking areas, except as part of a permitted temporary use.

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- c. Parking lots and loading areas shall not be used for parking or storage of inoperable vehicles for more than 48 consecutive hours, storage or display of vehicles for sale (unless owned by the property owner of record), vehicle repairs, dumping of refuse, or storage of any merchandise, equipment, products or materials unless otherwise permitted in this Zoning Code.
- F. OFF-STREET PARKING REQUIREMENTS. The minimum number of required off-street parking spaces and maximum number of permitted spaces by type of use shall be determined in accordance with the following schedule:
1. Minimum Parking Requirements: Off-street parking, stacking, and loading spaces shall be provided for specific uses of land and structures in the Village in accordance with the minimum requirements of this Section.
 2. Maximum Parking Requirements: The maximum amount of off-street parking permitted for any use shall not exceed one hundred twenty percent (120%) of the minimum parking requirements of this Section. This requirement shall not apply to spaces reserved for off-site uses as part of a shared parking facility agreement per §F.5., Shared Parking Facilities.
 3. Table of Off-Street Parking Requirements. Off-street parking, stacking, and loading spaces shall be provided for specific uses of land and structures in the Village in accordance with the following:

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TABLE OF OFF-STREET PARKING REQUIREMENTS

USE	MINIMUM REQUIRED PARKING
RESIDENTIAL USES	
Single-Family, Two-Family Dwellings	Two (2) per dwelling unit.
Multi-Family Developments	Two (2) per dwelling unit plus one (1) additional space for every five (5) units.
Bed and Breakfast Establishment	One (1) per guest sleeping room plus required spaces for the dwelling.
Elderly and Senior Housing	One (1) per dwelling unit plus one (1) per on-duty employee.
Adult Foster Care, State Licensed Residential Facilities, and Other Managed Residential Facilities	One (1) per resident sleeping room plus one (1) per on-duty employee.
Fraternity or Sorority Houses	One (1) for each two beds.
Child Day Care Home	Required spaces for the dwelling.
Manufactured (Mobile) Home Parks	Two (2) per dwelling.
INSTITUTIONAL USES	
Churches, Temples, or Similar Places of Worship	One (1) space (either off-street or on-street within 300 feet of the main building) for each four (4) seats in the main unit of worship
Hospital or Urgent Care Center	One (1) per two (2) beds plus one (1) per on-duty employee.
Clinic or Laboratory, Massage Therapist, or Physical Therapy Facility.	One (1) per examination or treatment room plus one (1) per on-duty employee.
Nursing or Convalescent Home	One (1) for each four (4) beds plus one (1) per on-duty employee.
Private Elementary and Middle Schools	One (1) per teacher or on-duty staff person plus requirements for auditorium if applicable.
Private Senior High Schools	One (1) per teacher or on-duty staff person plus one per each seven (7) students and the requirements for auditorium if applicable.
Libraries	One (1) per 800 square feet of floor area plus one (1) per on-duty employee.
Post Offices	One (1) per 800 square feet of floor area plus one (1) per on-duty employee.
Government Offices and Facilities	One (1) per 300 square feet of floor area.

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TABLE OF OFF-STREET PARKING REQUIREMENTS (Cont.)

USE	MINIMUM REQUIRED PARKING
OFFICE USES	
Professional, Service or Administrative Offices	One (1) per 300 square feet of floor area.
Medical, Osteopathic, Chiropractic, Optical or Dental Offices	One (1) per examination or treatment room plus one (1) per on-duty employee.
RECREATION FACILITIES	
Campground and Recreational Vehicle Parks	One (1) per campsite.
Health Club or Fitness Center	One (1) per 300 square feet of floor area
Theaters or Auditoriums	One (1) per four (4) seats plus one (1) per two (2) on-duty employees.
Private Recreation Membership, Swimming Pool Clubs	One (1) per four (4) persons within the maximum occupancy.
Golf Courses, except Miniature	Four (4) per hole plus one (1) per two (2) on-duty employees.
Marina's	One (1) per three (3) slips or mooring locations excluding designated transient slips plus one (1) per on-duty employee.
Miniature Golf, Batting Cages or Similar Uses	One (1) per golf hole, batting cage or similar station plus one (1) per on-duty employee.
Bowling Alleys	Three (3) per bowling lane plus one (1) per on-duty employee.
Dance Halls, Pool and Billiard Parlors, Skating Rinks	One (1) per four (4) persons within the maximum occupancy plus one (1) per two (2) on-duty employees.
COMMERCIAL USES	
Bank, Credit Union or Similar Financial Institution	One (1) per 300 square feet of floor area.
Planned Shopping Centers	One (1) per 200 square feet of floor area.
Barber Shop, Beauty Salon or Nail Care	One (1) per service chair or station plus one (1) per on-duty employee.
Day Care Center – Child or Adult	One (1) per six (6) children or adults of state licensed or authorized capacity plus one (1) per on-duty employee.
Dealership Sales or Rental Showrooms, Furniture and Appliance Household Equipment	One (1) per 800 square feet of floor area plus one (1) per on-duty employee.
Drive-in or Drive-through Facilities	Two (2) per service window plus six (6) stacking spaces per service lane.
Hotel, Motel or Tourist Home	One (1) per rental unit plus one (1) per on-duty employee.
Laundromat or Dry Cleaners	One (1) per five (5) washing and drying machines or 300 square feet of floor area for uses without machines plus one (1) per on-duty employee.

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TABLE OF OFF-STREET PARKING REQUIREMENTS (Cont.)

USE	MINIMUM REQUIRED PARKING
COMMERCIAL USES (Cont.)	
Funeral Parlor or Mortuary	One (1) per four (4) persons within the maximum occupancy.
Motor Vehicle Fueling Station	One (1) at each fueling location plus one (1) stacking space per two (2) fueling locations plus one (1) per on-duty employee.
Motor Vehicle Service or Repair Facility	One (1) per service bay plus one (1) per on-duty employee.
Outdoor Garden Center or Dealership Sales	One (1) per 4000 square feet of outdoor sales area
Restaurants and Food Service, Carry-Out Only	One per 200 square feet of floor area plus one per on-duty employee.
Restaurants and Food Service, Dine-In Seating	One (1) per four (4) persons within the maximum occupancy plus one (1) per on-duty employees.
Retail Stores and Commercial Uses not otherwise listed in this table.	One (1) per 300 square feet of floor area.
Sexually Oriented Business	One (1) per four (4) persons within the maximum occupancy plus one (1) per on-duty employees.
Tavern, Pub, Brewpub, Cocktail Lounge or Night Club	One (1) per four (4) persons within the maximum occupancy plus one (1) per on-duty employees.
Veterinary Clinic, Animal Hospital or Kennel	One (1) per 500 square feet of floor area plus one (1) per on-duty employee.
INDUSTRIAL, RESEARCH AND LABORATORY USES	
Industrial or Manufacturing Facility, Research and Testing Laboratories, and Related Offices and Showrooms.	Five (5) plus one (1) per on-duty employee.

4. Deferment of Parking Spaces. Where an applicant can demonstrate to the satisfaction of the Planning Commission that the minimum required number of parking spaces is excessive, the Planning Commission may approve the construction of a lesser number of parking spaces, provided that the deferred parking is shown on the site plan and set aside as open space.

5. Shared Parking Facilities. The minimum required parking spaces for a use per §6.C., of this Section shall not be considered as providing the required parking facilities for any other use, unless a shared parking facility agreement has been approved by the Planning Commission in accordance with the following:

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- a. Prior to approval of a shared parking facility, the Planning Commission shall determine that the operating hours of the uses do not overlap, or the peak activity for each use will occur at different periods of the day or week.
- b. The Planning Commission shall determine the conditions of overlapping requirements and the amount of reductions in the required number of spaces to be permitted in accordance with this subsection.
- c. Where shared parking facilities are provided, the minimum number of required parking spaces shall not be less than the sum of the minimum required number of spaces for the largest user of parking.
- d. Where shared parking facilities are provided, the minimum required parking for each use shall be located within 300 feet of a primary entrance to the principal building or use for which the parking is intended.
- e. Shared parking facilities and the permitted reduction in required parking shall be subject to the acceptance and approval by the Planning Commission of a Shared Parking Facility Agreement between the property owners. The property owners shall provide two (2) Notarized copies of the document to the Planning and Zoning Administrator.

G. OFF-STREET PARKING DESIGN AND SITE DEVELOPMENT REQUIREMENTS. Any off-street parking area providing spaces for five (5) or more vehicles for all land uses which require a Site Plan Review in accordance with §607, of this Code, shall be designed, constructed and maintained in accordance with the following standards and requirements:

- 1. No parking area providing spaces for five (5) or more vehicles for all land uses which require a Site Plan Review shall be constructed until a permit is issued by the Planning and Zoning Administrator and Site Plan approval has been authorized by the Planning Commission.
- 2. Barrier-Free Parking Requirements. Barrier-free parking spaces shall be provided at conveniently accessible locations within each parking area providing spaces for five (5) or more vehicles per the State Construction Code and the following:

Number of Parking Spaces Provided	Minimum Number of Barrier-Free Spaces Required	Van Accessible Parking Spaces Required
Up to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1

VILLAGE OF ELK RAPIDS ZONING CODE

3. Setback Requirements. A no-building buffer strip, to be used exclusively for landscaping, screening or drainage as required herein, shall be provided around the perimeter of all off-street parking areas containing spaces for five (5) or more vehicles in accordance with the following requirements:
 - a. Off-street parking spaces and driveways shall be set back a minimum of ten (10) feet from any side or rear property line and shall be effectively screened in accordance with §528.C.6., of this Code. The required setback shall not apply to parking spaces and driveways that serve single-family or two-family residential lots.
 - b. Off-street parking spaces and driveways shall be set back a minimum of six (6) feet from the public road right-of-way for the entire length of the roadway frontage, minus ingress and egress driveways, and shall be effectively screened in accordance with §528.C.6., of this Code.
 - c. Each ingress and egress to and from any parking lot located in an area zoned for other than Single or Multiple Residential Family use shall be at least twenty-five (25) feet from adjacent property located in any residential district and forty (40) feet from any public road intersection.
 - d. Distance measurements for setback requirements shall be made from the pavement edge to the nearest point along the lot boundary or right-of-way.
4. Ingress/Egress. Adequate means of ingress and egress shall be provided for all parking and loading facilities by means of clearly defined drives, curb cuts, and maneuvering lanes. Driveways and maneuvering lanes for any off-street parking area providing spaces for five (5) or more vehicles shall comply with the following requirements:
 - a. Aisles for access to all parking spaces on two-way aisles shall be designed and clearly marked for two-way traffic flow. Aisles for angle parking spaces shall be limited to one-way movement, and shall be clearly marked as such.
 - b. Ingress and egress to a parking lot shall not be across land located in any Single-Family Residential District if the parking lot is located in any district zoned for non-residential use.
 - c. Backing directly onto a road or using a road for maneuvering between parking rows shall be prohibited.
 - d. Not more than twenty (20) parking spaces shall be permitted in a continuous row without interruption by a landscaped island or similar site element in accordance with §528.C.8., of this Code.

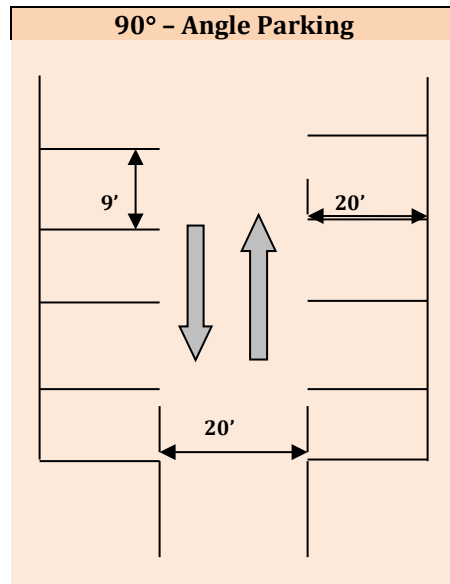
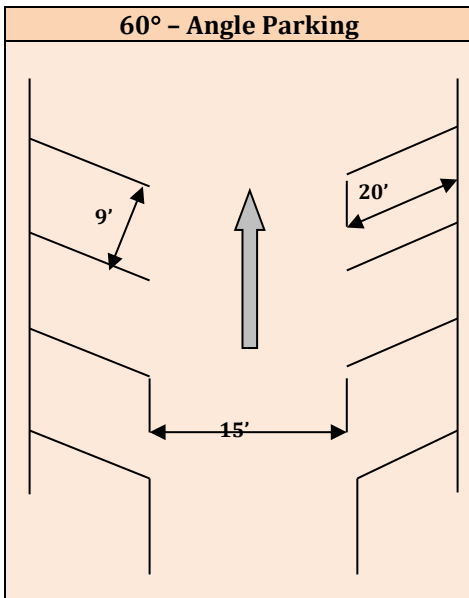
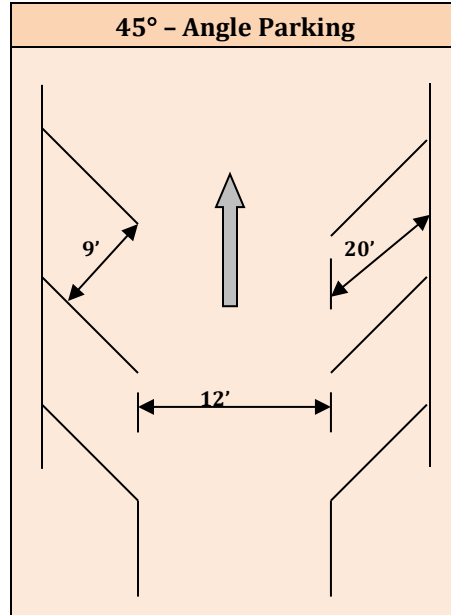
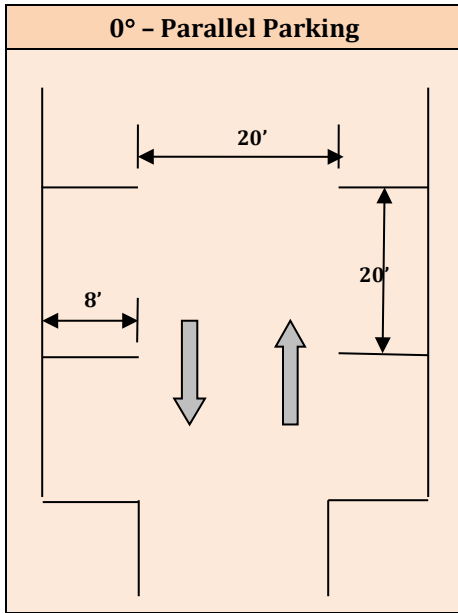
VILLAGE OF ELK RAPIDS ZONING CODE

5. Parking Layout. The layout of off-street parking shall be in accordance with the following minimum requirements (see Parking Layout illustration):
- a. Parking space dimensions shall be exclusive of access drives or aisles. Maneuvering lanes and aisles shall be designed to meet Village of Elk Rapids and other outside agency standards for emergency vehicle access.
 - b. Where required by this Section, stacking spaces shall be nine (9) feet wide by twenty (20) feet long. Stacking spaces shall not intrude into any road right-of-way or maneuvering lane for an off-street parking lot.

Parking Pattern (degrees)	Parking Space Width	Parking Space Length	Maneuvering Lane Width
0° (parallel)	8.0 feet	22 feet	20 feet (two-way)
45°	8.0 feet	20 feet	12 feet (one-way)
60°	8.0 feet	20 feet	15 feet (one-way)
90°	8.0 feet	20 feet	20 feet (two-way) 15 feet (one-way)

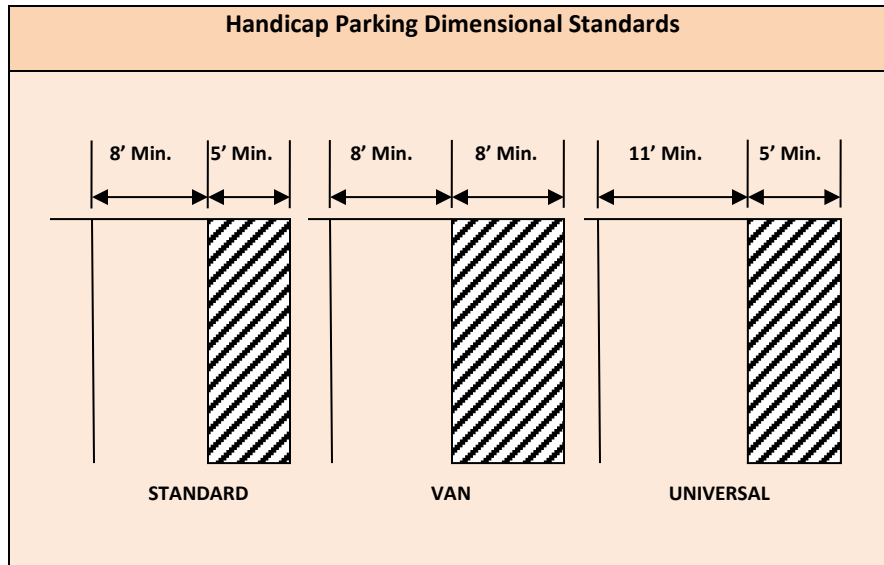
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TYPICAL PARKING DIMENSIONAL STANDARDS



VILLAGE OF ELK RAPIDS ZONING CODE

HANDICAP PARKING DIMENSIONAL STANDARDS



6. Grading, Drainage, and Storm Water Management.

- a. Off-street parking areas, including driveways, shall be graded and provided with adequate storm water management and drainage facilities to dispose of surface waters in accordance with this section and the Village of Elk Rapids Infrastructure Standard Specifications and Details Manual.
- b. Surface water shall not drain on to abutting properties, toward buildings or across a public roadway, except in accordance with an approved drainage plan.
- c. In order to improve the quality of storm water runoff, discharges of storm water shall be routed through swales, vegetated buffer strips, storm water basins, by the utilization of alternative pervious surface materials, or other facilities designed to decrease runoff velocity and volume, allow for natural infiltration, allow suspended solids to settle, and remove pollutants.

VILLAGE OF ELK RAPIDS ZONING CODE

7. Surfacing.
 - a. Off-street parking and loading areas requiring Site Plan Review and containing five (5) or more parking spaces, shall consider the use of alternative pervious surface materials as listed below, for all or a portion of a off-street parking, loading or unloading facilities. The use of alternative pervious materials shall not be construed as the only storm water management technique encouraged. Impervious surface materials can be used in combination with other traditional means of storm water management, such as, rain gardens, retention and detention basins and other traditional storm water management applications to meet on site storm water management requirements identified in §F., above.
 - b. Alternative pervious materials used for these areas may include, but not necessarily be limited to, permeable concrete, permeable asphalt, open jointed blocks, permeable pavers, or other materials designed to allow the maximum infiltration of water. Regular maintenance of these pervious areas is required to ensure that they continue to function properly after installation.
 - c. With authorization of the Planning Commission, parking lots abutting sensitive natural features like a stream, river, lake, wetland or the Great Lakes, may utilize gravel, grass, crushed stone or other dust producing surface, providing said surface will better protect the environmental quality of the sensitive natural feature without creating a nuisance for an abutting landowner, or result in inadequate surface quality for vehicles and pedestrians.
8. Striping and Signage. Pavement striping shall be provided in accordance with applicable State Construction Code requirements. All signage shall conform to the requirements of §529., of this Code.
9. Lighting. Light fixtures used to illuminate off-street parking areas shall conform to the requirements of §527., of this Code.
- H. OFF-STREET LOADING AND UNLOADING REQUIREMENTS. For any Commercial, Industrial, Institutional or Office land use that customarily receive or distribute vehicles with materials or merchandise, the following requirements shall be followed in order to avoid interference with public use of roads and parking areas:
 1. Each off-street loading or unloading space shall be of sufficient size and configuration to accommodate the largest type of delivery vehicle anticipated for the proposed use.

VILLAGE OF ELK RAPIDS ZONING CODE

2. Loading spaces shall be located within or immediately adjacent to the building to be served.
3. Off-street loading or unloading areas that result in vehicles backing directly into a public road are prohibited. All maneuvering shall take place on the site and not within a road right-of-way.
4. Each loading or unloading space shall be a minimum ten (10) feet in width, twenty-five (25) feet in length and, if a roofed space, not less than fifteen (15) feet in height.
5. The minimum number of off-street loading and unloading spaces shall be as follows:
 - a. First 2,000 square feet of floor area – None.
 - b. Each additional 20,000 square feet of floor area or fraction thereof – One (1).
 - c. In the case of two (2) or more uses on one (1) lot or parcel, the total requirements for off-street loading or unloading shall be the sum of the various uses.
(Ord. passed 3-2-15); (Am. Ord. 462, passed 10-19-15)

§531. SUPPLEMENTAL ENVIRONMENT AND WETLAND REGULATIONS

A. INTENT AND PURPOSE.

1. It is the intent and purpose of this Section to protect water quality and land resources related to lake and stream shorelines and other wetlands within the village and to enhance the future health, safety, and welfare of village residents. The village recognizes the unique value of wetlands, shorelines and floodplains, as a groundwater recharge area, a holding area for storm water, and an open space area for recreation, thus maintaining and preserving the quality of life in the village.
2. Further, uncontrolled development of wetlands not only reduces their unique character but also increases the potential for environmental damage and economic loss to both the individual and the community through flood damage, erosion, sedimentation, foundation, and septic tank failure.
3. In addition to areas designated as wetlands by the Michigan Department of Environmental Quality, wetlands are those areas of the village that are periodically or permanently covered with water or having high water table, support aquatic or semi-aquatic plants and animals, or contain soil types as defined and mapped by U.S.D.A. Soil Conservation Service for the area, specifically (Lu) Lupton Muck and (Ru) Roscommon Mucky Loamy Sand.

VILLAGE OF ELK RAPIDS ZONING CODE

4. Delineation of flood areas shall be based on reasonable flood expectancy, as determined by flood history or detailed flood plain engineering studies or as defined in Chapter 200, of this Code. Such flood areas shall be restricted as to use, building encroachment, and occupancy, so that human life is protected and future flood damage is minimized. In event of reasonable doubt as to location of a flood plain, the Planning and Zoning Administrator may require the applicant to submit detailed engineering studies prepared by a registered professional engineer showing the extent and location of floodable areas. All development in a wetlands or flood plain area as defined above shall first obtain approval of the Planning Commission and be issued a land use permit upon showing compliance with the provisions of this Code, pursuant to the conditions of which the Village thereby grants the specific use.

B. SITE PLAN REVIEW.

1. Each application for a land use permit shall conform to the provisions of §607 of this Code, and be accompanied by a site plan indicating the following:
 - a. A property line map at a scale of one-inch = 100 feet, showing contour lines of at least two foot intervals; soil types certified by a civil engineer or the Antrim County Soil Conservation District; all permanent surface water or subsurface water tables; flood plains; and all intermittent drainage-ways onto and off from the site.
 - b. The intended use as permitted in the zoning district in which the parcel is located.
2. All requirements of the zoning district in which the parcel subject to the land use permit is located shall serve as minimum standards.

C. GENERAL DEVELOPMENT CONDITIONS.

1. The following conditions apply to all development in a wetland or flood plain areas:
 - a. All normal runoff resulting from parking, drives, and roofs shall be held on the site for a sufficient time to avoid any increase in runoff over that which occurs from the site prior to development, since soil erosion adversely affects land owned by others in the established natural drainage or ground water system. A soil erosion plan shall be approved by the County Drain Commissioner. Certification by a civil engineer shall be furnished concerning present runoff pattern and proposed volume after development, if the project is over one acre.
 - b. Holding areas on the site shall retain the basic character of the wetlands environment.

VILLAGE OF ELK RAPIDS ZONING CODE

- c. Setbacks shall maintain natural vegetation for the purpose of soil retention and filtration.

D. FLOOD PLAIN PERMITTED USES.

- a. Notwithstanding any other provisions of this Zoning Code, no uses shall be permitted to occur within a flood plain except the following:
 - a. Open space uses, such as farms, truck gardens, nurseries, parks, playgrounds, golf courses, preserves, bridle paths, or other similar uses.
 - b. Yard and setback areas or other open space portions required for any district, provided that the elevation of the lowest floor designed for human habitation shall be above the established flood plain.
 - c. Off-street parking uses, provided that all parking areas shall conform to the provisions of §501.AD., of this Code.
 - d. Roads, service drives, and utility uses, when designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety, and welfare.

E. FLOOD PLAIN RESTRICTED USES.

1. Any structure where human habitation is contemplated either as a place of residence, places of public gathering, or employment shall be prohibited from locating in flood plain areas.

F. FLOOD PLAIN REQUIRED CONDITIONS.

1. Any construction other than as permitted in §531.D., or prohibited in §531.E., within the flood plain shall conform to the requirements of this section as administered by the Planning and Zoning Administrator with assistance from the Department of Environmental Quality.
2. Any construction within the flood plain shall be so designed, constructed, and placed on the lot or parcel so as to offer no added obstruction to the flow of water or reduce the holding capacity of the flood plain and be so fixed to the site as to withstand the force of the expected velocity of flood water.

VILLAGE OF ELK RAPIDS ZONING CODE

3. Where topographic data, engineering studies, or other studies are needed to determine the effects of flooding on proposed construction or the effect of construction on the flow of water, the applicant shall submit such data or studies, prepared by a registered professional engineer.
 4. Filling in flood plain areas to raise lands above the flood plain may be permitted with the approval of the Board of Appeals, subject to prior approval of the Michigan Department of Environmental Quality and in accordance with Act 245 of the Public Acts of 1929, as amended, being M.C.L.A. §§ 323.1 through 323.12.
- G. SETBACK FROM LAKES, RIVERS, AND STREAM.
1. For setbacks from lakes, rivers and streams, see §515.
- H. RETAINING WALL PERMIT.
1. No shoreline retaining wall shall be erected without the issuance of a land use permit, and no such permit shall be issued except upon a showing that all federal and state approvals have been secured. All such structures shall be designed and placed so as to minimize any adverse hydrological effects caused thereby to adjacent property owners.
- I. REMOVAL OF SHORE COVER.
1. Regulation of tree cutting along the shoreline or normal stream bank of any water body in the village is necessary to protect scenic beauty, control erosion, and reduce effluent and nitrified flow from the shoreland. Those provisions shall not apply to the removal of dead, diseased, or dying trees at the discretion of the landowner or to the silvicultural thinning upon recommendation of a forester.
 2. Tree cutting in a strip paralleling the shoreline and extending 35 feet inland from all points along the water mark of the shoreline or normal stream bank shall be limited in accordance with the following provisions:
 - a. No more than 30% of the length of this strip shall be clear cut to the depth of the strip.
 - b. The cutting authorized in this section shall not create a clear cut opening in a strip greater than 30 feet wide for every 100 feet of shoreline or normal stream bank.
 - c. The remaining 70% length of a strip cutting shall leave sufficient cover to screen cars, dwellings, accessory structures, except boathouses, as seen from the water, to preserve natural beauty, and to control erosion.

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- d. Natural shrubbery, trees, or other vegetation shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty.
- e. Any paths, roads, or passages within the strip shall be so constructed or surfaced as to be effective in controlling erosion.
- f. As an alternative to the above requirements, a special cutting plan allowing greater cutting may be permitted by the Planning Commission. In applying for such a permit the Planning Commission may require the lot owner to submit a sketch of this lot, including the following information: location of all structures, location of parking, gradient of the land, existing vegetation, proposed cutting, and proposed replanting. The Planning Commission may grant such a permit only if it finds that the special cutting plans:
 - Will not cause undue erosion or destruction of scenic beauty; and
 - Will provide substantial shielding of dwellings, accessory structures, and parking areas from the water. The Planning Commission may condition such a permit upon a guarantee of tree planting by the lot owner. Such an agreement shall be enforceable in court.
- g. From the inland edge of the 35-foot strip to the outer limits of the shoreland, the commercial harvesting of trees shall be allowed when accomplished under accepted forest management practices. The maintenance and improvement of water quality shall be emphasized in all timber harvesting operations.

J. STORMWATER DETENTION.

1. When any land in the village is developed or altered in any way which affects stormwater runoff, the owner shall:
 - a. When a public storm sewer is available, maintain the peak discharge from the property at a rate which does not exceed that which existed prior to development.
 - b. When a public storm sewer is not available, retain stormwater runoff onto adjacent properties, including roads and other rights-of-way, in a manner which shall result in the maximum amount of stormwater runoff not exceeding that which existed prior to the development or improvement of the property. This provision shall not apply to subdivisions with approved stormwater detention plans.

VILLAGE OF ELK RAPIDS ZONING CODE

2. In instances in which the Planning and Zoning Administrator considers the ability of a proposed use to meet all the requirements of this section to be reasonably doubtful, the Planning and Zoning Administrator may require the owner to develop and submit as part of the land use permit application a plan for detaining storm water as required. In this event, the Planning and Zoning Administrator may require that the plan be prepared by a registered civil engineer or other suitable professional and may withhold the land use permit until such evidence is submitted.

(Ord. passed 3-2-15)

§532. OVERLAY DISTRICTS FOR ENVIRONMENTALLY SENSITIVE AREAS

A. INTENT AND PURPOSE.

1. Due to the soil, topographic, high water table and drainage characteristics of several areas of the village, it is the intent of this section to implement the Master Plan and to protect the health, safety and welfare of village residents and property owners in these vicinities by establishing a set of special development regulations for such environmentally sensitive areas, allowing limited residential use while insuring that sound construction practices are employed, open spaces are protected, natural character and appearance are maintained and surface water is responsibly managed.
2. It is the further intent of this section, in those areas specifically designated as Conservation Residential by the Master Plan, to encourage clustered housing and lower densities than would normally be permitted by the underlying zoning districts, allowing development of those areas that are the most buildable, while protecting larger areas of environmentally sensitive lands as open space and minimizing the effect of storm water runoff.

B. CONFLICTING REGULATIONS.

1. Where the requirements for an Environmentally Sensitive Area Overlay District are determined to be in conflict with the underlying zoning district regulations, this section shall govern.

C. SECTION APPLICATION.

1. This section shall apply to all areas designated as Environmentally Sensitive Area Overlay Districts.

VILLAGE OF ELK RAPIDS ZONING CODE

D. ESTABLISHMENT OF THE SOUTH BAYSHORE DRIVE ENVIRONMENTALLY SENSITIVE AREA OVERLAY DISTRICT.



1. This section establishes an Overlay District for the environmentally sensitive area east of South Bayshore Drive, which shall be constituted and regulated according to this section, supplementing and, in certain cases, superseding requirements of underlying zoning districts.
2. The limits of the Overlay District, are shown in EXHIBIT "A", below, may be modified from time to time as deemed appropriate by the Village, and are as further defined by the Village Master Plan delineated Conservation Residential District within the boundaries.

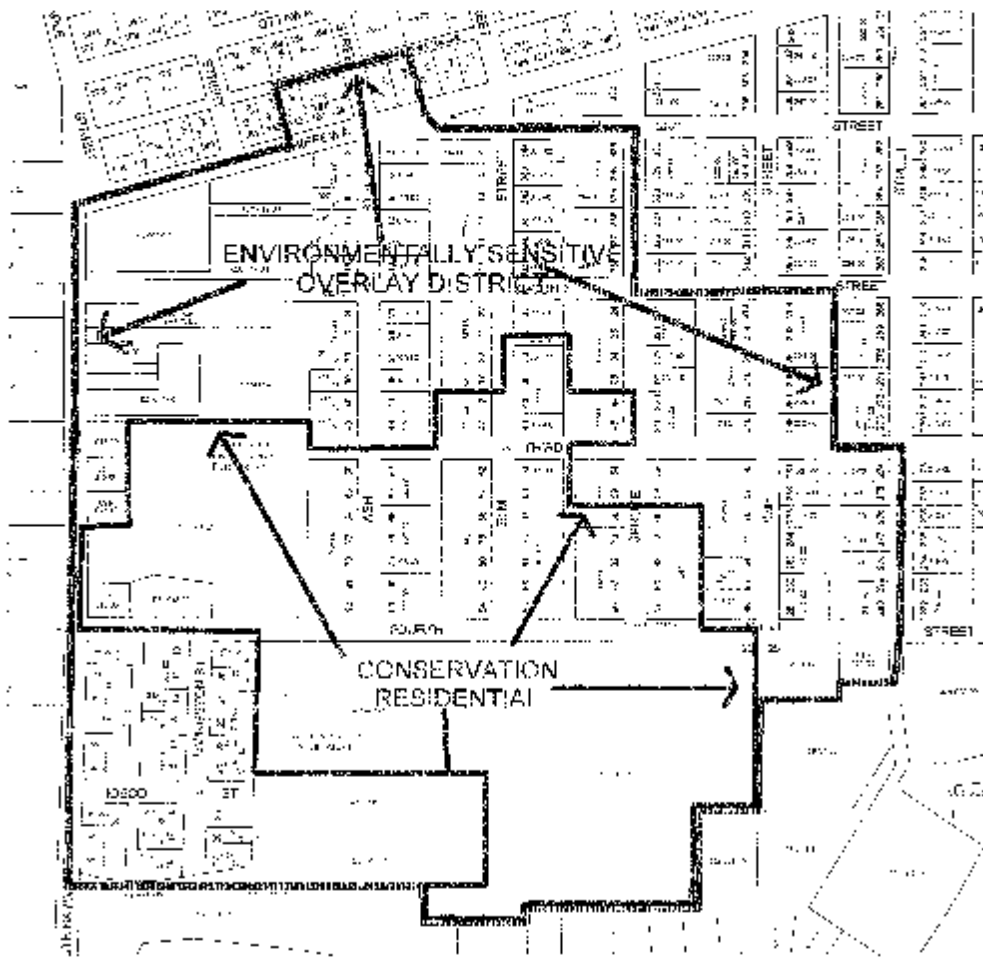
(Ord. passed 3-2-15)

VILLAGE OF ELK RAPIDS ZONING CODE

EXHIBIT A

Southwest Area
Overlay District

-  Conservation Residential
-  Environmentally Sensitive Overlay District



VILLAGE OF ELK RAPIDS ZONING CODE

E. USE REGULATIONS.

1. Uses permitted within an Environmentally Sensitive Area Overlay District shall be those permitted by the underlying zoning district. All uses within an Environmentally Sensitive Area Overlay District shall meet both the dimensional requirements of the underlying zoning district and the requirements of §532.E., and supplemental requirements shall apply in accordance with §532.F.

F. APPLICABLE OVERLAY DISTRICT REGULATIONS. The following regulations shall apply to all lands and uses within Environmentally Sensitive Area Overlay Districts:

1. Underground utility regulations. All utilities, including electric, telephone and cable TV, shall be constructed underground.
2. Grading and drainage regulations. Permit applicants shall prepare a grading and drainage plan based on a certified elevation survey showing consistence with the elevations and grades established by the village's overall grading and drainage plan for the area. The plan shall indicate: the limits of the proposed grading activities; the existing and proposed elevations of buildings, pavements and impervious surfaces; and the proposed elevations of ground surfaces. Floor elevations shall comply with the provisions of §E.5., below. Earth change and grading activities shall be planned and constructed in a manner that controls runoff and prevents discharges that may adversely affect adjoining properties, alleys or roadways. As much as practicable, runoff control measures shall be used that employ stormwater best management practices, such as grassed waterways and properly sized sedimentation areas. To protect environmentally sensitive areas, grading and filling activities shall be planned to minimize disturbance of existing vegetation and alteration of drainage patterns, except where such alteration is in keeping with the village's overall grading and drainage plan for the area. Preparation of this plan shall not relieve the applicant of the responsibility to obtain a Soil Erosion and Sedimentation Control Permit from Antrim County, if applicable.
3. Platted alley regulations. In previously platted areas that include un-improved alleys, being platted alleys that have not been surfaced and are not used for vehicle access, such alleys shall not be improved for the purpose of vehicle access. Except where already improved, existing platted alleys shall be used and maintained for the management, drainage and retention of storm water. Alleys shall not be filled, graded or developed in any way or encumbered by any building, structure, fence, wall, earthen berm or other improvements so as to impede the flow of storm water within the platted but un-improved alley.

VILLAGE OF ELK RAPIDS ZONING CODE

4. Soil correction regulations. No structure or pavement shall be constructed on unsuitable soils, those being organic, unstable or other soils deemed unsuitable for foundation support. Soils unsuitable for support of structures and/or paving shall be removed and replaced with acceptable fill materials; or other suitable structural methods shall be employed to support structures and pavement areas. If soils correction or structural methods are employed, they shall comply with generally accepted engineering practices. All sand fill materials shall be soils complying with Michigan Department of Transportation standards for Class II or Class III sand. Sand fill beneath structures or pavements shall be placed in lifts not exceeding eight inches and compacted to 95% of maximum dry unit weight.
5. Elevation requirements. A certified elevation survey shall be submitted with the permit application. Based on an established benchmark, the elevation survey will show: the elevation at the road edge; the high and low elevations on the lot; the elevation of the ground floor of the principal structure and its garage floor; as well as that of the finished site grade, which shall include a six inch drop in the first eight feet away from the principal structure. A condition for any permit issued shall be certification of the finished elevations. In an Environmentally Sensitive Area Overlay District, no habitable grade-level floor of any building, including garage floors, shall be constructed below the elevations established by the village's overall grading and drainage plan for the area.
6. Garage regulations. Existing unimproved alleys shall not be used for vehicle access, except where existing garages face such an alley. All garages and accessory buildings requiring paved flooring or aprons shall have a minimum rear yard setback from an unimproved alley of 25 feet and a front yard setback no more than 10 feet greater than that required for the principal building.
7. Landscaping regulations. All landscape plant materials shall meet the requirements of the underlying zoning districts. Noxious and invasive plant materials, such as purple loosestrife, shall not be used for landscaping purposes within Environmentally Sensitive Area Overlay Districts.
8. Soil stabilization regulations. Exposed soil shall be stabilized in accordance with The Guidebook on Best Management Practices for Michigan Watersheds (Michigan Department of Environmental Quality, Surface Water Quality Division) prior to winter freeze up, even if the project has not been completed. Generally, dormant seeding and mulching shall be used after October 1 but prior to freeze up.
9. Street lighting regulations. Required street lighting shall consist of cut-off type fixtures that direct light to the ground and promote "dark sky" lighting. Light fixtures shall be mounted on poles 25 feet or less in height.

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10. Permit fees. In Environmentally Sensitive Area Overlay Districts, fees for all permits regulated by this Zoning Code shall be increased by 20%.

G. APPLICABLE CONSERVATION RESIDENTIAL REGULATIONS. The following additional requirements shall apply to areas within Environmentally Sensitive Area Overlay Districts that the Village Master Plan specifically designates as Conservation Residential Areas:

1. Development intensity. The minimum parcel size shall be 18,000 square feet for previously platted property. Un-platted property shall have a maximum density of **2.4** dwelling units per acre.
2. Planned Unit Development (PUD) required. Any parcel consisting of more than two-and-one-half acres and containing more than one principal building shall be processed in accordance with the requirements of §606., Planned Unit Development. At the request of the applicant, PUD may be considered for parcels of less than two-and-a-half acres in Environmentally Sensitive Area Overlay Districts.
3. Lots of record. Any residential lot created and recorded within an Environmentally Sensitive Area Overlay District prior to the adoption of this section may be used for any permitted principal use, even though the lot area is less than that required by §F.a., above, provided:
 - a. The other dimensional requirements of the underlying districts are satisfied.
 - b. No adjacent land is owned by the owner of the lot in question or was owned at the time of adoption of this section.
 - c. Any lot so excepted shall be no less than 65 feet in width.

H. PROCEDURES.

1. Zoning Compliance Permit required. No amount of site grading or removal of vegetation for the purpose of site development shall be commenced in an Environmentally Sensitive Overlay District, until a Zoning Compliance Permit shall have been issued by the Planning and Zoning Administrator in accordance with the requirements and procedures of §604.

VILLAGE OF ELK RAPIDS ZONING CODE

2. Plans required. In addition to the requirements of §604 and §E.2., grading and drainage plans shall be prepared for each site or project specifying: the areas and extent of excavation; the method and place of soil disposal; the volume and type of replacement soil materials; the methods of soil replacement and compaction; the routing and retention of storm water; the type and methods to be employed in controlling soil erosion; as well as the removal of trees of greater than three inch caliper, and of shrub vegetation greater than six feet in height.
 3. Foundation inspection required. The owner will be required to provide evidence of an approved foundation inspection, prior to issuance of occupancy and prior to provision of water and sewer service.
- I. ESTABLISHMENT OF THE DAM BEACH AND FISHING PARK CONSERVATION/RECREATION OVERLAY DISTRICT.
1. This section establishes the Conservation/Recreation Overlay District for the Dam Beach and Fishing Park area which shall be constituted and regulated according to this section, supplementing and, in certain cases, superseding requirements of the underlying zoning district.
 2. The limits of the Conservation/Recreation Overlay District are generally within the boundaries established by Gosling Czubak Engineering Drawing dated February 26, 2014 (EXHIBIT "B"), and further described by the Village of Elk Rapids Recreation Master Plan, Adopted in 2013. The limits shown in EXHIBIT "B" may be modified as deemed appropriate by the Village.
3. INTENT AND PURPOSE.
1. It is the intent and purpose of this section to implement the Village of Elk Rapids Master Plan; to protect natural resource and water quality values; to protect, maintain and enhance local ecosystems and natural features of the property; to retain quality habitat for native plants and animals; and to provide passive recreation opportunities for public enjoyment.
4. CONFLICTING REGULATIONS:
1. When the requirements for this Conservation/Recreation Overlay District are determined to be in conflict with the regulations of the underlying zoning district, the regulations of this section shall govern.

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5. PERMITTED USES.

a. Notwithstanding any other provisions of this Zoning Code, and as further provided below, no use shall be permitted to occur within the Conservation/Recreation Overlay District except the following:

- Open space uses, such as natural preserve areas, parks, beach and picnic activities, fishing, or other similar passive recreational uses.
- Existing road, fishing platforms, service drive and sidewalk, and utility uses, when designed to effectively control erosion, or otherwise not be detrimental to the public health, safety, and welfare.
- Site appropriate, low impact, universal access facilities that are minimal and seasonally removable.
- Off-street parking, provided all parking areas conform to the provisions of §530., Off-Street Parking and Loading, of this Code, and further provided that alternative permeable type surfacing be utilized incorporating rain garden or other similar storm water management systems wherever practical.
- A modern restroom facility to be positioned as recommended in an area next to the existing parking area and outside of the designated dune area.
- Temporary structures, (i.e. tents) to accommodate recreational, cultural, and educational uses.
- Special event or other similar temporary activities or uses, determined to benefit the community that are permitted by special approval of the Village Council.

6. PROPERTY IMPROVEMENT REGULATIONS.

a. The following regulations shall apply to all property improvement activity within the Conservation/Recreation Overlay District:

- Grading, beach grooming, or other similar activities shall be prohibited unless permits required by all governmental entities having jurisdiction have been obtained and, a copy of the approved permits have been provided to the Planning and Zoning Administrator.

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- Native shrubbery, trees, or other vegetation shall be preserved as far as practicable, and where removed, shall be replaced with other native vegetation that is equally effective in preventing erosion and preserving the natural beauty of the area. Non-native, noxious and invasive plant materials, such as purple loosestrife, shall not be used within Conservation/Recreation Overlay District;
- Utilities, including water, sewer, electric, if deemed necessary by the Village Council, shall be constructed underground.

(Ord. passed 3-2-15)

VILLAGE OF ELK RAPIDS ZONING CODE

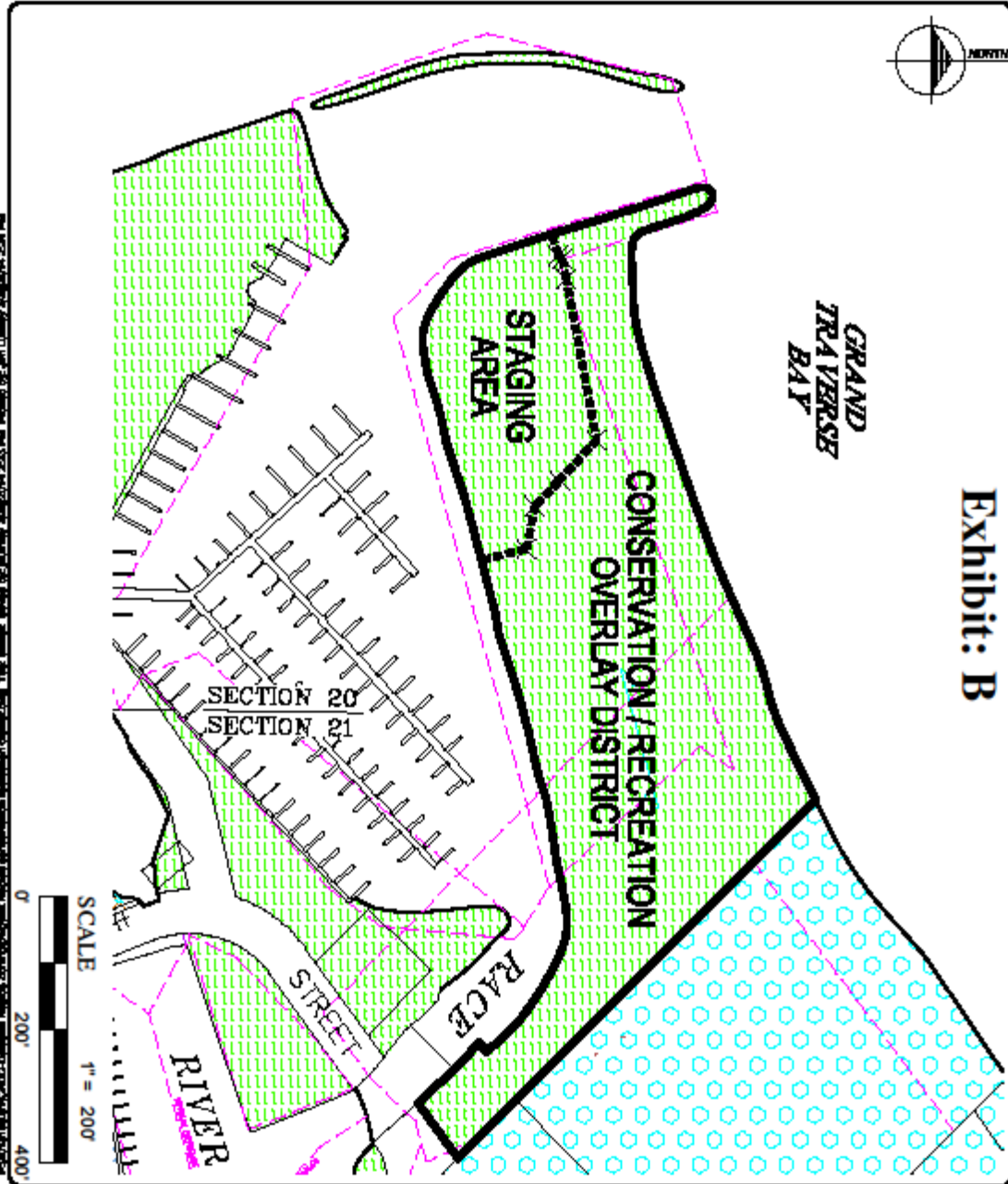


Exhibit: B

<p>Client: Conservation / Recreation Overlay District Village of Elk Rapids Antrim County, Michigan</p>	<p>Sheet: 1 of 1</p> <p>Job No.: 2013150.01 Date: 02/04/2014 Scale: 1" = 200' Drawn: JF Checked: DAC Rev.: 02/26/2014</p>	<p>Boaling Corbett engineering science, inc. 1888 Business Park Drive Traverse City, MI 49781-8997 231-941-4141 800-444-9282 Fax: 231-941-4838</p> <ul style="list-style-type: none"> - Engineer - Surveyor - Environmental Services - Landscape Architects
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(Ord. passed 3-2-15)

VILLAGE OF ELK RAPIDS ZONING CODE

§533. SUBDIVISION IMPROVEMENTS

- A. **PURPOSE.** It is the purpose of this section to establish and define the improvements which will be required to be constructed by the sub-divider as conditions for final plat approval and also to outline the procedures and responsibilities of the sub-divider and the various public officials and agencies concerned with the administration, planning, design, construction, and financing of public facilities and to further establish procedures for assuring compliance with these requirements.
- B. **RESPONSIBILITY FOR PLANS.** It shall be the responsibility of the sub-divider of every proposed subdivision to have prepared by a licensed engineer a complete set of construction plans, including profiles, cross-sections, contour grading plans, specifications, and other supporting data for the hereinafter required public streets, driveways, drainage ways and structures, utilities, including electric, gas, telephone and television, and other facilities. Construction plans shall be based on preliminary plans which have been approved with the preliminary plat final approval and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies shown. All construction plans shall be prepared in accordance with the applicable standards or specifications.
- C. **REQUIRED IMPROVEMENTS.** Every sub-divider shall be required to install the public and other improvements set forth in this section in accordance with the conditions and specifications as follows.
- D. **STREETS AND TRAFFIC WAYS.**
1. Subject to division D.2., of this section, streets and intersections shall conform to the required construction standards for streets, roads, and intersections adopted by the village. Streets shall be dedicated to public use.
 2. Private streets or roads and access by easement may be permitted within Planned Unit Developments or site condominiums where acceptable to the Village Council. Private streets and traffic ways in access easements shall be allowed only under the following circumstances:
 - a. Use of the road is not required by the general public, such as persons not having an ownership interest in the road.
 - b. The road is a limited dead end road or is contained within a project which is not a part of the village major thoroughfare or road plan.
 - c. The private road is one which may be extended at a later date when it is agreed that the road will become public.

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- d. The type of land use does not require a public road for health, safety, and welfare of the public.
3. Location and arrangement.
 - a. Conformity to Master Plan. The proposed subdivision shall conform to the various elements of the Master Plan and the village and county thoroughfare plans and shall be considered in relation to the existing thoroughfares and collector streets. Roadways within the plat shall be platted in the location and the width indicated on such plan.
 - b. Local streets. The street layout shall include local streets so laid out that their use by through traffic shall be discouraged.
 - c. Primary thoroughfare. Should a proposed subdivision border on or contain an existing or proposed major thoroughfare, the Village Council shall require marginal access streets, reverse frontage, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.
 - d. Relation to topography. Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets, and reasonable gradients.
 4. Right-of-way widths. Street right-of-way widths shall conform to at least the following minimum requirements:
 - a. Primary thoroughfare: Right-of-way widths shall be in conformance with the village thoroughfare or street plan.
 - b. Residential and others: Right-of-way widths shall be 66 feet or 86 feet with utility right-of-way.
 5. Street gradients and alignment. Street gradients and alignment shall be as established and amended by the village from time to time.
- E. INTERSECTIONS.
1. Angle of intersection. Streets shall intersect at 90° or closely thereto and in no case at less than 80°.

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2. Sight triangles. Minimum clear sight distance at all minor street intersections shall permit vehicles to be visible to the driver of another vehicle when each is 125 feet from the center of the intersection.
3. Number of streets. No more than two streets shall cross at any one intersection.
4. Centerline offsets. Slight jogs at intersections shall be avoided. Where such jogs are unavoidable, street centerlines shall be offset by a distance of 150 feet or more.
5. Vertical alignment of intersection. Nearly flat grade with appropriate drainage slopes is desirable within intersections. This flat section shall be carried back 50 feet.

F. BLOCKS.

1. A block shall be so designed as to provide two tiers of lots, except where lots back onto an primary thoroughfare, natural feature, or subdivision boundary.
2. Blocks shall not be less than 500 feet from center of street to center of street.
3. The maximum length allowed for residential blocks shall be 1,320 feet from center of street to center of street.

G. LOTS.

1. Conform to zoning. The lot width, depth, and area shall not be less than the particular district requirements of this Zoning Code, except where outlets are provided for some indicated and permitted purpose.
2. Lot lines. Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.
3. Width related to length. Narrow deep lots shall be avoided. The depth of a lot generally shall not exceed two and one-half times the width as measured at the building line.
4. Corner lots. Corner lots shall have extra width to permit appropriate building setback from both streets or orientation to both streets and shall be laid out in a manner which will assure that the front of the residence is located on the street accommodating the least traffic either at the time of construction or at a later day.

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5. Back up lots. Lots shall back into such features as primary thoroughfares, except where there is a marginal access street, unless a secondary access is provided. The lots shall contain a landscaped easement along the rear at least 20 feet wide to restrict access to the primary thoroughfare, to minimize noise, and to protect outdoor living areas. Lots extending through a block and having frontage on two local streets shall be prohibited.
6. Lot frontage. All lots or parcels shall front upon a publicly dedicated street unless approved upon a private access as provided in §531.D.
7. Future arrangements. Where parcels of land are subdivided into unusually large lots, the parcels shall be divided, where feasible, so as to allow for re-subdividing into small parcels in a logical fashion. Lot arrangements shall allow for the ultimate extension of adjacent streets through the middle of wide blocks or splitting of lots into smaller lots. Whenever such future re-subdividing or lot splitting is contemplated, the plan thereof shall be approved by the Planning Commission prior to the taking of such action.
8. Lot splits.
 - a. No lot, outlot, or other parcel of land, either in a recorded plat or a metes and bounds parcel, shall be further partitioned or divided unless in conformity with this Zoning Code, the Subdivision Control Act of 1967, as amended, being M.C.L.A. §§ 560.101 *et seq.*, and other applicable state statutes. Any land owner wishing to so divide or partition shall submit to the Planning and Zoning Administrator three copies of a completed written application, on forms provided by the village, enclosing a site plan which complies with requirements of this Zoning Code and a receipt showing that all taxes have been paid. No lot in a recorded plat shall be divided into more than four parts.
 - b. When the resultant partition or division is in full conformance with the provisions of this Code and the taxes are paid, the Planning and Zoning Administrator, upon written review of the Village Assessor, shall authorize the partition or division. The division of a lot or lots into larger sized lots shall also be permitted by the Planning and Zoning Administrator, provided that all affected lots shall be larger in size so as to be in greater square footage compliance and are otherwise in compliance and in complete conformance with all other dimensions, use, and other requirements of this Zoning Code.
 - c. Division of un-platted parcel. The division of an un-platted parcel of land into two, three, or four lots involving the dedication of a new street shall require the approval of the Village Council prior to taking such action. All such applications shall be made in writing and shall be accompanied by a drawing of the proposed division. No land use

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permit shall be issued in such cases until the Council has approved division of such lands.

9. DRIVEWAYS. In areas having steep topography generally in excess of 10% gradient and erodible soils, the probable location of driveways to each lot shall be shown on the preliminary and final plat from the road or street paving to the outer edge of the required right-of-way. Grading and structures for driveways shall be shown on the plans required under §608.D.1. through §608.D.5. All driveway openings shall be as specified by the village or the Michigan Department of Transportation. Driveways in any case shall not exceed 12.5% grade.

10. EASEMENTS.

- a. Location. Easements shall be provided along front lot lines in accordance with the standards of the village and alongside lot lines when necessary for utilities. The total width shall not be less than six feet along each lot or a total of 12 feet for adjoining lots.
- b. Drainage. The sub-divider shall provide drainage way easements as required by the rules of the village.

11. NATURAL FEATURES AND UNINHABITABLE AREAS.

- a. Existing natural features which add value to residential development and enhance the attractiveness of the community (such as trees, watercourses, historic spots, and similar irreplaceable assets) shall be preserved, insofar as possible, in the design of the subdivision.
- b. Lands subject to high organic content soils, high water table, and flooding or otherwise deemed by the Planning Commission to be uninhabitable shall not be platted for residential purposes or for uses that may, in the judgment of the Planning Commission, increase the danger to health, life, or, property or increase the flood hazard. Such land within a subdivision shall be set aside for other uses, such as parks or other open space.

12. PUBLIC SITES AND OPEN SPACES. Where a proposed park, playground, school, or other public use shown on the Master Plan is located in whole or in part within a subdivision, a suitable area for this purpose may be dedicated to the public or reserved for public purchase. Lands designated for either private or public open space or park use shall have natural qualities and location which make it suitable for developed recreational facilities accessible to all lots within the plat or have unique natural qualities and location which make it desirable to leave the land in an undisturbed and protected natural state. Odd or

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unusually shaped parcels of land shall not be so designated merely to avoid difficult design or layout problems.

13. PEDESTRIAN WAYS. Rights-of-way for pedestrian walkways in the middle of long blocks shall be required where necessary to obtain convenient pedestrian circulation to schools, parks, or shopping areas. Other walkways shall be provided when required to provide access to common park areas, beaches, and other open space. The right-of-way shall be at least ten feet wide. In the case of crosswalks, they shall extend entirely through the block. Sideline setbacks shall be calculated from the pedestrian right-of-way. Walkways shall be improved as part of the overall subdivision improvement and as a minimum shall be a wood chip walkway. Bike paths shall be designed in accordance with Michigan State Department of Highway and Transportation Standards or as approved by the Village Council. The proprietor shall provide for the maintenance of crosswalks and pedestrian walkways.

14. STREET NAMES.

- a. Street names shall not duplicate any existing street name in the county, except where a new street is a continuation of an existing street, in which case it shall take the same name. Street names that may be spelled differently but sound the same shall also be avoided.
- b. Street name signs shall be installed in the appropriate locations at each street intersection in accordance with the requirements of the Antrim County Road Commission.

15. STREET LIGHTING. All streets shall be lighted in accordance with the current lighting standards and specifications of the Village of Elk Rapids.

16. PLANTING STRIPS, RESERVE STRIPS, AND STREET TREES.

- a. Planting strips may be required to be placed in subdivisions next to incompatible features such as highways or agricultural properties. Such screens shall be a minimum of 20 feet wide unless otherwise provided in this Ordinance; in such cases the most stringent provisions shall prevail. Such screens shall not be a part of the normal roadway right-of-way or utility easement.
- b. Street trees shall be provided as required by the Planning Commission after review and recommendation by the Village Beautification Commission in accordance with the following:
 - The trees should be the species as determined by the Planning Commission which are most resistant to damage and disease in this part of the country and which are not

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likely to cause interference with underground utilities or street lighting or street pavement.

- Street trees should be spaced so that there will be approximately ten feet between branch tips when the trees are full grown. No trees shall be planted within 50 feet of the intersection of two street right-of-way lines. Approaches to buildings should be considered when locating trees.
- When planted, trees should be at least one and one-half inches in diameter one foot above the ground. Lowest branches should not be less than seven feet and no more than ten feet above the ground.
- The number of trees shall be determined by the lot widths. There shall be a minimum of one tree per interior lot with a frontage of 70 feet or less, or a minimum of two trees per lot with a frontage of more than 70 feet. At least three trees shall be provided for a corner lot.

17. INSTALLATION OF UTILITIES.

- a. Utilities shall be located in accordance with the rules of the village. The underground work for utilities shall be stubbed to the property line.
- b. Water supply.
 - Where a public water supply system is accessible to the subdivision, provisions shall be made by the sub-divider to supply each lot in the subdivision with water from the public supply by means of a water supply system which meets current village specifications.
 - Where a public water supply system is not accessible to the subdivision by reasons of absence of feeder mains, the sub-divider shall bear the cost of installation of a new feeder main from the source of supply to the subdivision in accordance with current village specifications.
 - Where it is deemed impractical to connect to an existing public water system or otherwise have a public water system within a plat, in accordance with the Safe Drinking Water Act, Act 399 of the Public Acts of 1976, as amended, being 325.1001 *et seq.*, and a private community water system has been developed, the private system shall meet the requirements of the current village specifications for water systems.

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c. Sanitary sewer system.

- When a proposed plat is to be serviced by a public sanitary sewage system, sanitary sewers and other required appurtenances thereto shall be provided by the sub-divider. Sewer systems shall comply with the requirements of Act 98 of the Public Acts of 1913, as amended, being M.C.L.A. §§ 325.201 *et seq.*
- If there is no existing or accessible public sewer system, a sewer system for the common use of the lot owners may be required to be provided by the sub-divider, if feasible in the judgment of the Village Council with the advice of the Health Department, which shall comply with the requirements of Act 98 of the Public Acts of 1913, as amended, being M.C.L.A. §§ 325.201 *et seq.*. The system provided shall be turned over to the village for operation and maintenance.
- Where it is determined in the judgment of the Planning Commission and the County Health Department, that a subdivision cannot be economically connected with an existing public sewer system or that a public sewer system cannot be provided for the subdivision itself, then septic tanks and disposal fields which comply with the requirements of the County Health Department may be approved. However, where studies by the Planning Commission indicate that construction or extension of sanitary trunk sewers to serve the property being subdivided appears a probability within a reasonably short time (up to three years), sanitary sewer mains and house connections shall be installed and capped.

d. Underground wiring. The sub-divider of a residential subdivision shall make arrangements for all local distribution lines for telephone or electric service exclusive of main supply and perimeter feed lines, when located on section or quarter section lines, to be placed entirely underground throughout a subdivided area. However, when a subdivision overlaps a section or quarter section line, main supply and perimeter feed lines located on such section or quarter section line shall be placed underground. The Village Council may waive or modify this requirement where, in its judgment, circumstances exist that render compliance impractical. Conduits or cables shall be placed within private easements provided to the service companies by the sub-divider or within public ways. Those telephone and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephone and electrical facilities shall be constructed with standards of construction approved by the Michigan Public Service Commission.

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- e. Storm drainage system.
- An adequate storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts, bridges, and other appurtenances shall be required in all subdivisions. The requirements for each particular subdivision shall be established by the County Drain Commission.
 - Construction shall follow the specifications and procedures established by the County Drain Commission. All proposed storm drainage construction plans for proposed plats shall be approved by the County Drain Commissioner.

18. CONTROL OF EROSION AND SEDIMENTATION.

- a. In the event that any developer shall intend to make changes in the contour of any land proposed to be subdivided, developed, or changed in use by grading, excavating, or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon, the changes shall only be accomplished after the owner of the land or his agent has submitted to the Village Council for approval a plan for erosion and sedimentation controls, unless there has been a prior determination by the Village Council that such plans are not necessary. Such plans shall contain adequate measures for control of erosion and siltation, where necessary, using the guidelines and policies contained herein and the standards and specifications of the Antrim County Soil Conservation District. The Village Council shall review these plans as submitted and shall take necessary steps to ensure compliance by the developer with these plans as finally approved.
- b. In circumstances where soil erosion control comes under the jurisdiction of the state Soil Erosion and Sedimentation Control Act, Act 347 of the Public Acts of 1972, being M.C.L.A. §§ 282.101 *et seq.*, (five acres or more), the developer shall submit a set of plans approved by the Antrim County Soil Erosion Control Officer.
- c. For Plats not under jurisdiction of Act 347 of Public Acts of 1972, being M.C.L.A. §§ 282.101 *et seq.*, the developer shall comply with the following requirements:
- Three sets of plans for the control of erosion and sedimentation shall be submitted to the Planning Commission at the time the final plat drawings are submitted.
 - Measures to be taken to control erosion and sedimentation shall be described and provided for in the construction agreement and the estimated cost of accomplishing such measures shall be covered in the performance bond. In addition, the sub-divider shall be required to provide a cash escrow guarantee (to be held by a company which is in the practice of handling escrows), approved by the Village Council, in an amount

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determined by the Planning Commission, which would ensure the Village that emergency measures could be taken by the Village at the sub-divider's expense, if the sub-divider did not initiate corrective action determined to be needed by the Planning Commission. In this regard, the sub-divider shall, at the time of final plat submission, deliver to the Village Council, written instructions addressed to the escrow holder to convey to the sub-divider, after completion of the entire subdivision, (as per the construction agreement) upon approval by the resolution of the Village Council, the cash guarantee or to convey to the village when the Village Council has approved such action, by resolution, such amounts of the cash guarantee as the resolution requires.

- At the building permit application stage, a review will be conducted to ensure conformance with the plan as approved.
 - During the construction phase, further consultative technical assistance will be furnished, if necessary, by the Village Council. The Village Council shall enforce compliance with the approved plans.
 - The Village Council shall make a continuing review and evaluation of the methods used and the overall effectiveness of the erosion and sedimentation control program.
- d. The following control measures shall be used for an effective erosion and sediment control plan:
- The smallest practical area of land should be exposed at any one time during development.
 - When land is exposed during development, the exposure should be kept to the shortest practical period of time.
 - Where necessary, temporary vegetation and/or mulching should be used to protect areas exposed during development.
 - Sediment basins (debris basins, de-silting basins, or silt traps) should be installed and maintained to remove sediment from runoff waters from land undergoing development.
 - Provisions should be made to retain effectively on property any increased run-off caused by changed soil and surface conditions during and after development.
 - The permanent final vegetation and structures should be installed as soon as practical in the development.

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- The development plan should be fitted to the topography and soils so as to create the least erosion potential.
- Wherever feasible, natural vegetation should be retained and protected.

18. GUARANTEE OF COMPLETION OF IMPROVEMENTS REQUIRED BY THE VILLAGE.

- a. Authority. In lieu of the actual installation of required public improvements, the Village Council may permit the sub-divider to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of the county road commission, county drain commission, or any other agency responsible for the administration, operation, and maintenance of the applicable public improvement. The Village Council may waive financial guarantees of performance under this Ordinance for street lights or street trees. In case these improvements are specified, completion may be required prior to the issuance of occupancy permits as required by this Code.
- b. Performance or surety bond.
 - Accrual. The bond shall accrue to the village, covering construction, operation, and maintenance of the specific public improvement.
 - Amount. The bond shall be in an amount equal to the total estimated cost for completing construction of the specific public improvement, including contingencies, as estimated by the Village Council.
 - Term length. The term length in which the bond is in force shall be for a period to be specified by the Village Council for the specific public improvement.
 - Bonding or surety company. The bond shall be with a surety company authorized to do business in the state, acceptable to the Village Council.
 - Escrow agreement. The escrow agreement shall be drafted at the expense of the developer and approved by the Village Attorney.
- c. Cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit.
 - A cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, such surety acceptable by the Village Council, shall accrue to the village. These

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deposits shall be made with the Village Treasurer or deposited with a responsible escrow agent or trust company, subject to the approval of the Village Council.

- The dollar value of the cash deposit, certified check negotiable bond, or an irrevocable bank letter of credit shall be equal to the total estimated cost of construction of the specific public improvement including contingencies, as estimated by the Village Council.
- The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit shall be for a period to be specified by the Village Council.
- In the case of cash deposits or certified checks, an agreement between the village and the sub-divider may provide for progressive payment out of the cash deposit or reduction of the certified check, negotiable bond, or irrevocable bank letter of credit to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.

19. MONUMENTS. Monuments shall be set in accordance with the State Subdivision Control Act and the rules of the State Department of Treasury.

(Ord. passed 3-2-15)

§534. OPEN SPACE DEVELOPMENT

- A. For the purposes of this Code, an open space development involves the siting of residential units upon a site in a manner which responds to the preservation of a site's special natural resources, preserves open spaces for the enjoyment of those residents who will occupy the projects dwelling units, and generally blends the man-built environment with the natural environment in a manner not otherwise obtainable through traditional subdivisions or lot split development patterns. This concept is viewed by the Village as a highly effective technique to preserve the Village's small town character while providing for residential development of property.
- B. The Applicant shall guarantee to the satisfaction of the Village Attorney that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Village and the land uses continue as approved in the open space development.

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C. The following open space requirements apply: ~~in residential P.U.D.'s:~~

1. The total areas of dedicated open space shall equal at least 30% of the parcel, exclusive of parking lots, roads and public rights-of-way. Dedicated open space may include floodplain areas, but no more than 40% of the required dedicated open space may be wetlands and no more than 20% of the required dedicated open space may be submerged on a year-round basis.
2. All land within a development that is not devoted to a dwelling unit, an accessory use, vehicle access, vehicle parking, a roadway, or an approved land improvement, shall be set aside as common land for recreation, conservation, or preservation in an undeveloped state.
3. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Village Attorney, such as recorded deed restrictions, covenants that run with the land, transfer of a nonprofit land trust, or a conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L.A. § 399.251). Such conveyance shall assure that the Village will not be liable for any uses or activities occurring within the dedicated open space and that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use unless mutually agreed by the written consent of the Village Council and the property owner or association. Such conveyance shall also:
 - a. Indicate the proposed allowable use(s) of the dedicated open space.
 - b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
 - c. Provide standards for scheduled maintenance of the open space.
 - d. Provide for maintenance to be undertaken by the Village in the event that the dedicated open space is inadequately maintained, or is determined by the Village to be a public nuisance, with the assessment of costs upon the property owners.
4. Eighty percent of the dedicated open space must be contiguous.
5. All dedicated open space must be a minimum of 20 feet wide.
6. Dedicated open space must be easily accessible from all open space development residences.

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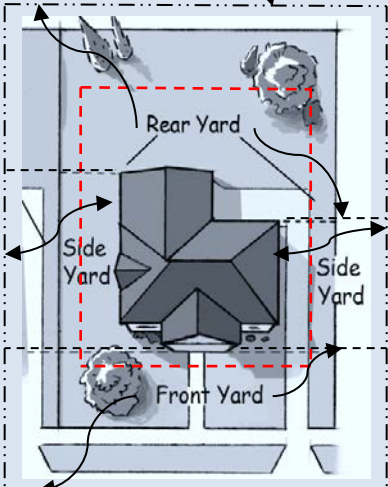

7. The dedicated open space shall remain open space, subject only to uses approved by the Village on the approved site plan. Further subdivision of open space land or its use for other than recreation or conservation purposes, except for easements for utilities and septic systems, shall be strictly prohibited.
8. Any structure(s) or building(s) accessory to a recreation or conservation use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, 1% of the dedicated open space area.

(Ord. passed 3-2-15)

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§535. ZONING DISTRICT DEVELOPMENT STANDARDS.

R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT

<p>R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT</p> 		
<p>Minimum Lot Area:</p> <ul style="list-style-type: none"> 12,000 square feet per dwelling unit. <p>Minimum Lot Width:</p> <ul style="list-style-type: none"> 100 feet per dwelling unit. <p>Maximum Lot Coverage:</p> <ul style="list-style-type: none"> 30% - all structures. 	<p>Minimum Front Yard Setback: ♦ - - - - -</p> <ul style="list-style-type: none"> 25 feet. For corner or multiple street frontage lots, the minimum front yard setback shall be observed from all streets. <p>Minimum Rear Yard Setback:* - - - - -</p> <ul style="list-style-type: none"> 30 feet. <p>Minimum Side Yard Setback: - - - - -</p> <ul style="list-style-type: none"> 10 feet for one side yard 20 feet for both side yards For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages. <p>Detached Accessory Building:</p> <ul style="list-style-type: none"> Min. side yard setback = 10 ft. Min. rear yard setback = 5 ft.* <p>♦ See §511. * See §512.</p>	<p>Minimum Floor Area:</p> <ul style="list-style-type: none"> 650 Sq. Feet. – One-story dwelling 450 Sq. Feet. – Two-story dwelling, first floor area. 650 Sq. Feet. – Two-story dwelling, both stories. <p>Maximum Height:</p> <ul style="list-style-type: none"> 26 Feet. <p>Accessory Building:</p> <ul style="list-style-type: none"> Max. Area ≤ first floor area of primary dwelling.

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R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT

R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT



Minimum Lot Area:

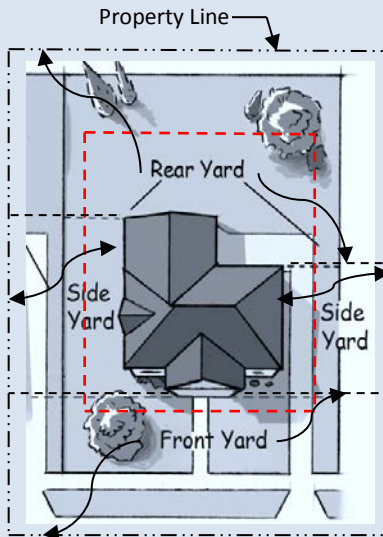
- 7,260 square feet per dwelling unit.

Minimum Lot Width:

- 65 feet per dwelling unit.

Maximum Lot Coverage:

- 30 % - all structures.



Minimum Front Yard Setback: ♦ - - - - -

- 12 feet.
- For corner or multiple street frontage lots, the minimum front yard setback shall be observed from all streets.

Minimum Rear Yard Setback: * - - - - -

- 30 feet.

Minimum Side Yard Setback: - - - - -

- 5 feet for one side yard
- 15 feet for both side yards
- For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages.

Detached Accessory Building:

- Min. side yard setback = 5 ft.
- Min. rear yard setback = 5 ft.*

♦ See §511.B.

* See §512.



Minimum Floor Area:

- 650 Sq. Feet. – One-story dwelling
- 450 Sq. Feet. – Two-story dwelling, first floor area.
- 650 Sq. Feet. – Two-story dwelling, both stories.

Maximum Height:


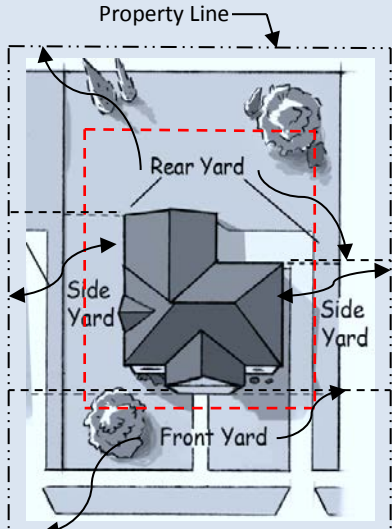

- 26 Feet.

Accessory Building:

- Max. Area ≤ first floor area of primary dwelling.

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R-3, SINGLE-FAMILY RESIDENTIAL DISTRICT.

<p>R-3, SINGLE-FAMILY RESIDENTIAL DISTRICT.</p>  <p>Minimum Lot Area:</p> <ul style="list-style-type: none"> • 5,500 square feet per dwelling unit. <p>Minimum Lot Width:</p> <ul style="list-style-type: none"> • 50 feet per dwelling unit. <p>Maximum Lot Coverage:</p> <ul style="list-style-type: none"> • 30 % - all structures. 	 <p>Minimum Front Yard Setback: ♦ - - - - -</p> <ul style="list-style-type: none"> • 12 feet. • For corner or multiple street frontage lots, the minimum front yard setback shall be observed from all streets. <p>Minimum Rear Yard Setback:* - - - - -</p> <ul style="list-style-type: none"> • 30 feet. <p>Minimum Side Yard Setback: - - - - -</p> <ul style="list-style-type: none"> • 5 feet for one side yard • 15 feet for both side yards • For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages. <p>Detached Accessory Building:</p> <ul style="list-style-type: none"> • Min. side yard setback = 5 ft. • Min. rear yard setback = 5 ft.* <p>♦ See §511.B. * See §512.</p>	 <p>Minimum Floor Area:</p> <ul style="list-style-type: none"> • 650 Sq. Ft. – One-story dwelling • 450 Sq. Ft. – Two-story dwelling, first floor area. • 650 Sq. Ft. – Two-story dwelling, both stories. <p>Maximum Height:</p> <ul style="list-style-type: none"> • 26 Feet. <p>Accessory Building:</p> <ul style="list-style-type: none"> • Max. Area ≤ first floor area of primary dwelling.
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VILLAGE OF ELK RAPIDS ZONING CODE

RM-L, MULTI-FAMILY LOW DENSITY DISTRICT

RM-L, MULTI-FAMILY LOW DENSITY DISTRICT



Minimum Lot Area:

- Min. lot area for all RM development = 1 acre.
- 7,260 square feet per dwelling unit.

Minimum Lot Width:

- 65 feet per dwelling unit for first two units, 10 additional feet for next six units, 5 additional feet for each additional unit to a max. of 250 feet. .

Maximum Lot Coverage:

- 35% - all structures.

Minimum Front Yard Setback:

- 30 feet.
- For corner or multiple street frontage lots, the minimum front yard setback shall be observed from all streets.

Minimum Rear Yard Setback:*

- 30 feet.

Minimum Side Yard Setback:

- 15 feet for one side yard
- 30 feet for both side yards
- For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages.

Detached Accessory Building:

- Min. side yard setback = 5 ft.
- Min. rear yard setback = 5 ft.*

*See §512.

*See additional requirements §470.

Minimum Floor Area:

- 650 Sq. Ft. – One-story dwelling
- 450 Sq. Ft. – Two-story dwelling, first floor area.
- 650 Sq. Ft. – Two-story dwelling, both stories.

Maximum Height:

- 35 Feet.

Accessory Building:

- Max. Area ≤ first floor area of primary dwelling.

*See additional requirements §471.

VILLAGE OF ELK RAPIDS ZONING CODE

RM-H, MULTI-FAMILY HIGH DENSITY DISTRICT

RM-H, MULTI-FAMILY HIGH DENSITY DISTRICT



Minimum Lot Area:

- Min. lot area for all RM development = 1 acre.
- Single Family = 9,600 square feet per dwelling unit.
- Two Family = 7,260 square feet per dwelling unit.
- Multi-Family = 8,000 for first dwelling unit, plus 5,000 square feet for each additional 3 or more bedroom units; 4,000 square feet for each additional 2 bedroom unit; and 3,000 square feet for each additional 1 bedroom or efficiency unit.

Minimum Lot Width:

- 65 feet per dwelling unit.

Maximum Lot Coverage:

- 35% - all structures.



Minimum Front Yard Setback:

- 30 feet.
- For corner or multiple street frontage lots, the minimum front yard setback shall be observed from all streets.

Minimum Rear Yard Setback:*

- 30 feet.

Minimum Side Yard Setback:

- 15 feet for one side yard
- 30 feet for both side yards
- For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages.

Detached Accessory Building:

- Min. side yard setback = 5 ft.
- Min. rear yard setback = 5 ft.*

*See §512.

*See additional requirements §470.



Minimum Floor Area:

- 650 Sq. Ft. – One-story dwelling
- 450 Sq. Ft. – Two-story dwelling, first floor area.
- 650 Sq. Ft. – Two-story dwelling, both stories.

Maximum Height:

- 35 Feet.

Accessory Building:

- Max. Area ≤ first floor area of primary dwelling.

*See additional requirements §471.

VILLAGE OF ELK RAPIDS ZONING CODE

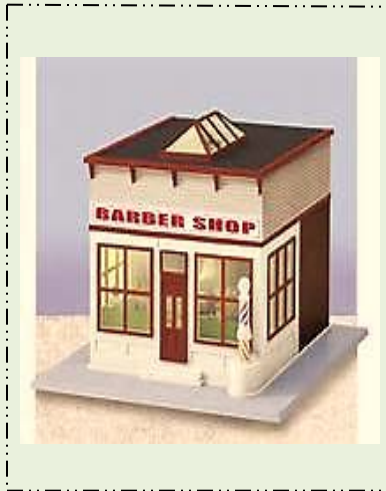
RM-MH, MOBILE HOME DISTRICT

<p>RM-MH, MOBILE HOME DISTRICT.</p>  <p>Minimum Lot Area:</p> <ul style="list-style-type: none"> • Min. lot area for all RM-MH development = 15 acres. • Single Family = 5,500 square feet per dwelling unit. <p>Minimum Lot Width:</p> <ul style="list-style-type: none"> • N/A <p>Maximum Lot Coverage:</p> <ul style="list-style-type: none"> • 35% - all structures. 	 <p>Minimum Front Yard Setback:</p> <ul style="list-style-type: none"> • 23 feet. <p>Minimum Rear Yard Setback:*</p> <ul style="list-style-type: none"> • 10 feet. <p>Minimum Side Yard Setback:</p> <ul style="list-style-type: none"> • 10 feet for one side yard • 20 feet for both side yards • For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages. <p>Detached Accessory Building:</p> <ul style="list-style-type: none"> • Min. side yard setback = 5 ft. • Min. rear yard setback = 5 ft.* <p>*See §512. *See additional requirements §471.</p>	 <p>Minimum Floor Area: *</p> <ul style="list-style-type: none"> • 650 Sq. Ft. – One-story dwelling • 450 Sq. Ft. – Two-story dwelling, first floor area. • 650 Sq. Ft. – Two-story dwelling, both stories. <p>Maximum Height:</p> <ul style="list-style-type: none"> • 25 Feet. <p>Accessory Building:</p> <ul style="list-style-type: none"> • Max. Area ≤ first floor area of primary dwelling. <p>*See additional requirements §471.</p>
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VILLAGE OF ELK RAPIDS ZONING CODE

B-1, LOCAL BUSINESS DISTRICT

B-1, LOCAL BUSINESS DISTRICT.



Minimum Lot Area:

- 8,000 square feet.

Minimum Lot Width:

- 80 feet.

Maximum Lot Coverage:

- 35% - all structures.



Minimum Front Yard Setback: ♦ - - - - -

- 30 feet.

Minimum Rear Yard Setback:* - - - - -

- 30 feet.

Minimum Side Yard Setback: - - - - -

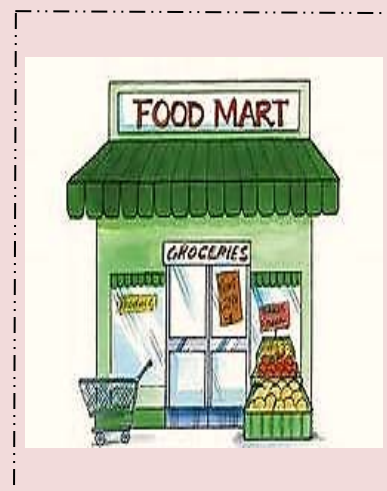
- 10 feet for one side yard
- 20 feet for both side yards
- For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages.

Detached Accessory Building:

- Min. side yard setback = 5 ft.
- Min. rear yard setback = 5 ft.*

*See §512

♦See §513.



Minimum Floor Area:

- Variable

Maximum Height:

- 26 Feet.

Accessory Building:

- Max. Area ≤ first floor area of primary building.

VILLAGE OF ELK RAPIDS ZONING CODE

B-2, CENTRAL BUSINESS DISTRICT

B-2, CENTRAL BUSINESS DISTRICT.



- Minimum Lot Area:**
- 1,800 square feet.
- Minimum Lot Width:**
- N/A
- Maximum Lot Coverage:**
- N/A



- Minimum Front Yard Setback:**
- N/A
- Minimum Rear Yard Setback:***
- N/A
- Minimum Side Yard Setback:**
- N/A
- Detached Accessory Building:**
- N/A

*See §512.



- Minimum Floor Area:**
- Variable
- Maximum Height:**
- 35 feet.
- Accessory Building:**
- Max. Area \leq first floor area of primary building.

VILLAGE OF ELK RAPIDS ZONING CODE

B-3, COMMERCIAL BUSINESS DISTRICT

B-3, COMMERCIAL BUSINESS DISTRICT.



Minimum Lot Area:

- 12,000 square feet.

Minimum Lot Width:

- 100 feet.

Maximum Lot Coverage:

- N/A



Minimum Front Yard Setback: ♦

- 30 feet.

Minimum Rear Yard Setback: *

- 30 feet.

Minimum Side Yard Setback:

- 10 feet for one side yard
- 20 feet for both side yards
- For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages.

Detached Accessory Building:

- Min. side yard setback = 5 ft.
- Min. rear yard setback = 5 ft.*

*See §512.

♦See §513.



Minimum Floor Area:

- Variable

Maximum Height:

- 26 feet.

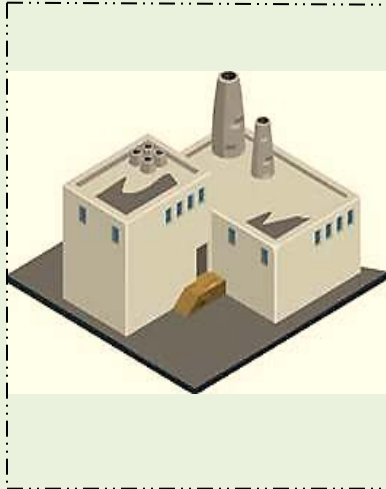
Accessory Building:

- Max. Area ≤ first floor area of primary building.

VILLAGE OF ELK RAPIDS ZONING CODE

I-1, INDUSTRIAL DISTRICT

I-1, INDUSTRIAL DISTRICT.



Minimum Lot Area:

- 20,000 square feet.

Minimum Lot Width:

- 150 feet.

Maximum Lot Coverage:

- N/A



Minimum Front Yard Setback: ♦

- 30 feet.

Minimum Rear Yard Setback:*

- 30 feet.

Minimum Side Yard Setback:

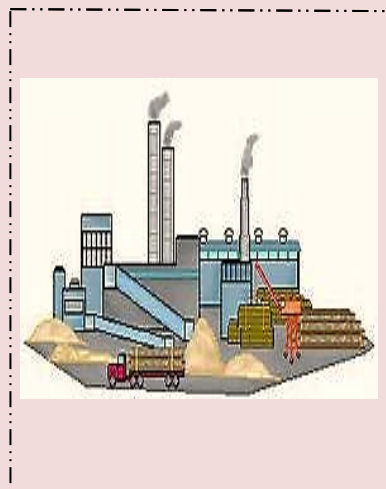
- 15 feet for one side yard
- 30 feet for both side yards
- For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages.

Detached Accessory Building:

- Min. side yard setback = 5 ft.
- Min. rear yard setback = 5 ft.*

*See §512.

♦See §520.



Minimum Floor Area:

- Variable

Maximum Height:

- 35 feet.

Accessory Building:

- Max. Area ≤ first floor area of primary building.

VILLAGE OF ELK RAPIDS ZONING CODE

P-1, PUBLIC DISTRICT

<p>P-1, PUBLIC DISTRICT.</p>  <p>Minimum Lot Area:</p> <ul style="list-style-type: none"> • 12,000 square feet. <p>Minimum Lot Width:</p> <ul style="list-style-type: none"> • 100 feet. <p>Maximum Lot Coverage:</p> <ul style="list-style-type: none"> • 30 % 	 <p>Minimum Front Yard Setback: ♦</p> <ul style="list-style-type: none"> • 30 feet. <p>Minimum Rear Yard Setback:*</p> <ul style="list-style-type: none"> • 30 feet. <p>Minimum Side Yard Setback:</p> <ul style="list-style-type: none"> • 15 feet for one side yard • 30 feet for both side yards • For corner or multiple street frontage lots, side yard setback requirements shall apply to those lot lines that are not street frontages. <p>Detached Accessory Building:</p> <ul style="list-style-type: none"> • Min. side yard setback = 5 ft. • Min. rear yard setback = 5 ft.* <p>*See §512. ♦See §520.</p>	 <p>Minimum Floor Area:</p> <ul style="list-style-type: none"> • Variable <p>Maximum Height:</p> <ul style="list-style-type: none"> • 35 feet. <p>Accessory Building:</p> <ul style="list-style-type: none"> • Max. Area ≤ first floor area of primary building.
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(Ord. passed 3-2-15)

VILLAGE OF ELK RAPIDS ZONING CODE

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CHAPTER 600 – PERMITS AND APPROVAL
REQUIREMENTS

VILLAGE OF ELK RAPIDS ZONING CODE

CHAPTER 600
PERMIT AND APPROVAL REQUIREMENTS

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VILLAGE OF ELK RAPIDS ZONING CODE

§601. PURPOSE.

- A. This Chapter is intended to establish procedures and standards for the review of land use permit applications as herein prescribed. It is further intended to ensure a thorough evaluation of a site and the potential impacts on public health, safety and welfare in relationship to the Master Plan, drainage, utilities, natural resources, traffic patterns, adjacent parcels, landscaping and signs.
- B. The site plan review standards and procedures as described in Chapter 500, Site Development Standards, provide an opportunity for the Planning Commission or the Village Council to review a proposed land use in terms of site preparation and grading, building footprint, parking supply and design, service areas, easements, access points, vehicular and pedestrian traffic flow, landscape design, relationship to adjacent uses, adequacy of utilities, storm water management, placement of signs and lighting fixtures, preservation of significant natural features and aesthetics.
- C. This Chapter is also intended to assist the Village in ensuring that buildings, structures, and uses are in conformity with the provisions of this Code, other ordinances of the Village, as well as state, county, or federal statutes.
(Ord. passed 3-2-15)

§602. PERMITS AND APPROVALS REQUIRED.

- A. No use may be made of property, nor may a use be changed; no clearing, grading, excavation or fill (for construction or erection of a structure, or for any land development) may be started; no structures may be constructed, erected, moved or altered, except according to the regulations of this chapter and with the approval and issuance of one of the following permits:
 - 1. A Zoning Compliance Permit issued by the Planning and Zoning Administrator.
 - 2. A Special Use Permit approved by the Planning Commission.
 - 3. A Planned Unit Development Permit approved by the Village Council.
 - 4. A Preliminary Plat or Final Plat Approval approved by the Village Council.
- B. Section §602.A., shall not apply to the following:
 - 1. Those items not defined as a "Structure" in Chapter 200 of this Code.
 - 2. Those items and activities associated with "Essential Services" as defined in Chapter 200 of this Code.

VILLAGE OF ELK RAPIDS ZONING CODE

3. One detached accessory structure less than or equal to 100 square feet Gross Floor Area, providing all other required setbacks are met.
4. Land contour alterations that do not conflict with §706. of this Code.
5. Repairs and improvements that do not alter the structure nor change the exterior shape of any building to the extent that a Building Permit is required.
6. "Satellite Signal Receiving Antenna" as defined in Chapter 200 of this Code.

C. Permits and Bonds.

1. Where permits are required by this chapter, they shall be obtained upon application to the Village, and payment of the application fee established by the Village Council. Such permit shall be revocable by the permit issuing authority for failure to comply with this chapter, rules and regulations adopted pursuant hereto, and the lawful orders of the Planning and Zoning Administrator or duly authorized representative, and shall be valid only for the period of time endorsed thereon. Application for a permit under the provisions of this chapter shall be deemed an agreement by the Applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the Village in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the Village from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. All Applicants shall provide Commercial General Liability, Workers Compensation and Motor Vehicle Liability insurance policies showing the Village as being additionally insured. The policies shall be filed when making application for a permit. The policies shall not be less than amounts as set by the Village Council.
2. Permits and approvals under this chapter may only be issued after a review of the complete application and plans contained therein, and that the development, when completed as proposed, complies with the provisions of this Code. Approved site plans, building plans, and other application documents are incorporated by reference as part of any permit or approval issued and, except as otherwise provided in this Code. all development shall occur strictly in accordance with such approved plans and application documents.

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3. Approved permits shall:
 - a. Be issued in the name of the Applicant except, applications submitted by an agent shall be issued in the name of the principal;
 - b. Identify the property involved and the proposed land use thereof;
 - c. Incorporate, by reference, the site plan or other plans submitted; and
 - d. Contain any special conditions or requirements lawfully imposed by the permit or approval issuing authority.

(Ord. passed 3-2-15)

§603. GENERAL PERMIT REQUIREMENTS.

A. PERMIT SUBMITTAL AUTHORITY.

1. Any person with a legal interest in a lot or parcel, may apply for permit or site plan approval noted in §602.A., above. If the Applicant is not the fee simple owner of the property, the Applicant shall submit a statement signed by the property owner(s) authorizing the application for permit or site plan approval.
2. The Planning and Zoning Administrator may require the Applicant to submit evidence of their authority to submit the application in accordance with this section whenever there appears to be a reasonable basis for questioning this authority.

B. EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS.

1. Approval of a Zoning Compliance Permit, Special Use Permit, Planned Unit Development Permit or Final Plat, authorizes the Applicant to make use of land and structures in a particular way. Such permits and approvals are transferable so long as the land or structures or any portion thereof covered under the permit continues to be used for the purposes for which the permit was granted.
2. No person, including successors or assigns of the Applicant who obtained the permit, may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and conditions of that permit.
3. The terms and conditions of a Special Use Permit or Planned Unit Development Permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any legal interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any legal interest in all or part of

VILLAGE OF ELK RAPIDS ZONING CODE

the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain a legal interest in the property had actual or recorded notice as provided in §603.B.2., above, of the existence of the permit at the time they acquired their interest.

4. Whenever a Special Use Permit, Planned Unit Development Permit or Final Plat approval is issued to authorize development, (other than single-family or two-family residences), on a parcel or tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property provides documentation that the permit has been recorded at the Antrim County Register of Deeds.

C. APPLICATION COMPLETENESS.

1. All applications for a Zoning Compliance Permit, Special Use Permit, Planned Unit Development Permit or Final Plat approval must be complete in accordance with the requirements of this chapter before the permit-issuing authority is required to consider the application.

D. OCCUPANCY, USE, OR SALE OF LOT(S) OR PARCELS.

1. Issuance of a Zoning Compliance Permit, Special Use Permit, Planned Unit Development Permit or Final Plat, authorizes the recipient to commence the activity resulting in a change in use of the land and, subject to obtaining a building permit and all other permits required by other agencies having jurisdiction, to commence work designed to construct, erect, move or alter buildings or other structures. However, except as provided in §604.D., below, the intended use may not be commenced, nor may any building be occupied, nor may lots be sold until all of the requirements of this Zoning Code, and all additional requirements imposed pursuant to the issuance of a Special Use Permit, Planned Unit Development Permit or Final Plat approval have been met.
2. In cases when, because of weather conditions or other factors beyond the control of the Applicant, exclusive of financial hardship, it would be unreasonable to require the Applicant to comply with all of the requirements of this Zoning Code prior to commencing the intended use of the property or occupying any buildings, the Planning and Zoning Administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this chapter are concerned) if the Applicant provides a performance bond or other security, satisfactory to the legal counsel of the Village, to ensure that all of the requirements of this chapter will be fulfilled within a reasonable period (not to exceed 12 months), as determined by the Planning and Zoning Administrator.

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E. EXPIRATION OR EXTENSION OF PERMITS.

1. Subject to §603.E.3., below, a Zoning Compliance Permit, Special Use Permit, Planned Unit Development Permit, or Final Plat approval shall expire, if, within one calendar year from the date of issuance of such permit, actual construction has not commenced or the permitted land use has not commenced where no actual construction is required.
2. If, after some physical alteration to land or structures begins to take place, and such work is discontinued for a period of one calendar year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of §606.E.
3. The permit-issuing authority may extend, for a period not to exceed 365 days, the date when a permit would otherwise expire pursuant to §603.E.1. and §603.E.2., above, if it concludes that the permit has not yet expired; that the Applicant has proceeded with due diligence and in good faith; and that conditions have not changed so substantially, in the opinion of the Planning and Zoning Administrator, as to warrant a new application.
4. Permits that have expired for which no extension has been granted according to §603.E.3. above, may not be reissued, but rather, a new application shall be submitted for review in the same manner as the original permit application along with payment of required fees in accordance with all applicable procedures of this Zoning Code.

F. AMENDMENTS OR MODIFICATION OF PERMITS.

1. A request for amendment or modification to an approved Zoning Compliance Permit, Special Use Permit, Planned Unit Development Permit or Final Plat, including the approved site plan, shall be submitted in writing to the Planning and Zoning Administrator, accompanied by a revised site plan and all other necessary documentation illustrating in detail the amendment or modification being requested.
2. Zoning Compliance Permit. The Planning and Zoning Administrator may authorize an amendment or modification to approved Zoning Compliance Permits, including the approved plans, for those uses permitted by "Right" in §405, District Table of Permitted Use Summary. All such amendments shall be recorded in writing by the Planning and Zoning Administrator and maintained with the permanent record file of the property.
3. Special Use Permit/Planned Unit Development Permit. Any modification or amendment to a Special Use Permit or Planned Unit Development Permit, including the approved site plans, shall be made by submitting a written request to the Planning and Zoning Administrator in accordance with §603.F.1., above.

VILLAGE OF ELK RAPIDS ZONING CODE

- a. Inconsequential Modifications or Amendments, to Special Use Permit or Planned Unit Development Permit, including the approved site plans, may be approved by the Planning and Zoning Administrator without the necessity of a public hearing or payment of additional fee, who, after consideration of all previous and concurrent modifications and amendments, has determined the request results in no foreseeable cumulative effects beyond the subject property; does not alter the basic design or specified conditions of approval of the plan placed by the Planning Commission or Village Council; and, that all applicable regulations of this section are met. For the purposes of this section, Inconsequential Modifications or Amendments shall be limited to the following:
- Reduction in the height or the square footage of any building and/or sign provided the minimum dimensional requirements of §504., have been met.
 - An increase in the gross floor area for residential dwellings of not more than 5% of the previously approved area, provided the increase does not alter the character of use, the overall density of units is not increased, the building(s) do not extend outside the approved building envelope or into any required setback or open space areas, and that parking requirements are met.
 - An increase in the gross floor area for non-residential buildings of not more than 10% or 2,000 square feet, whichever is less, of the previously approved area, provided the building(s) do not extend outside the approved building envelope or into any required setback or open space area, and that parking requirements are met.
 - Relocation of a building up to five feet that does not result in a violation of required setback, open space or other code requirements.
 - Relocation/adjustment of underground utilities and service lines provided they are reviewed and approved by the Village Engineer and accurate “as-built” drawings are provided to the Planning and Zoning Administrator.
 - Changes of building materials to another of higher quality and the same nature (e.g., brick, wood, vinyl, and the like) as determined by the Planning and Zoning Administrator.
 - Reduction in disturbed woodland and/or wetland areas.
 - Replacement of plantings on the approved landscape plan by similar types of landscaping on an equal to or greater basis.

VILLAGE OF ELK RAPIDS ZONING CODE

- Internal re-arrangement of a parking lot that does not affect the number of required parking spaces or alter access locations or design.
- Sign placement or reduction in size or number of signs consistent with the intent of the approved site plan.
- Relocation of trash receptacles.
- Changes required or requested by Village, County, State or Federal agencies having jurisdiction for public health and safety reasons.

The Planning and Zoning Administrator shall provide the Applicant, Planning Commission and/or Village Council written approval of an Insignificant Amendment or Modification to an approved site plan. All such amendments shall be recorded and maintained with the permanent file of the property.

- b. Non-substantive Design Modification or Amendment, to Special Use Permit or Planned Unit Development Permit, including the approved site plans, determined by the Planning and Zoning Administrator to not qualify as an Insignificant Modification or Amendment noted in §603.F.3.a., above, may be approved by the permit issuing authority without a formal application, public hearing or payment of any additional fee. For the purpose of this division, Non-substantive Design Modifications or Amendments are those that the permit issuing authority determines have no detrimental impact on neighboring properties, the general public or those intended to occupy or use the proposed development. All such amendments shall be recorded and maintained with the permanent file of the property.
- c. All other requests for modification or amendment to Special Use Permit or Planned Unit Development Permit, including the approved site plan, shall be processed as a new application following the same procedures for the original site plan approval in conformance with the requirements of this chapter. The Planning Commission, Village Council, or Zoning Board of Appeals, may impose new conditions, but the Applicant shall retain the right to reject such new conditions by withdrawing their request for an amendment of the site plan, Special Use Permit or Planned Unit Development Permit, and proceed in accordance with the previously approved site plan and permit.

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G. RECONSIDERATION OF BOARD ACTION.

1. Action by the Planning Commission or the Village Council denying an application for Special Use Permit or Planned Unit Development Permit, on any basis other than the failure of the Applicant to submit a complete application, may not be reconsidered by the respective Board, unless the Applicant clearly demonstrates that:
 - a. Circumstances affecting the property that is the subject of the application have substantially changed; or
 - b. New information is available that could not, with reasonable diligence, have been presented at a previous hearing.
2. If the Planning Commission or Village Council finds that a previously denied application differs substantially, as described in §603.G.1., above, the application may be treated as a new application and shall be processed following the same procedures required for the original application in conformance with the requirements of this chapter.

The Planning Commission or the Village Council may waive this requirement if they find no good public purpose will be achieved thereby.

H. MAINTENANCE OF COMMON AREAS, IMPROVEMENTS AND FACILITIES.

1. The recipients or their successors, of a Zoning Compliance Permit, Special Use Permit, Planned Unit Development Permit or Final Plat approval, shall be responsible for maintaining all common areas, improvements, or facilities required by this Zoning Code or any permit issued in accordance with its provisions, except those areas, improvements or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As an illustration, and without limiting the generality of the foregoing, this section requires that private roads and parking areas, water and sewer lines, and recreational facilities be properly maintained so that they may be used in the manner intended, and that required vegetation and trees used for screening, landscaping, or shading are replaced if they die or are destroyed.

I. CONSULTATION PRIOR TO FORMAL APPLICATION.

1. To minimize development planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Zoning Code, a pre-application consultation between the developer and Village staff is encouraged or may be required as provided in this Code.

(Ord. passed 3-2-15)

VILLAGE OF ELK RAPIDS ZONING CODE

§604. ZONING COMPLIANCE PERMITS.

- A. Application for a Zoning Compliance Permit shall be made on such form provided by the Planning and Zoning Administrator and shall include the name and address of all persons having a legal interest in the lot or parcel upon which new or existing structures or buildings ~~it~~ are to be erected, enlarged, altered or moved.
- B. The Planning and Zoning Administrator shall issue the Zoning Compliance Permit unless, after reviewing the application, it is determined that:
1. The requested permit is not within the jurisdiction of the Planning and Zoning Administrator according to §703. of this Code;
 2. The application is incomplete; or
 3. If completed as proposed in the application, the development will not comply with one or more requirements of this Zoning Code, not including those requirements for which a variance has been granted or that the Applicant is not required to comply with under the circumstances specified in §702., of this Code.
- C. Two (2) copies of a plot plan depicting the site layout shall be submitted with all applications for a Zoning Compliance Permit showing the following:
1. The location, shape, area, and dimensions for the parcel(s), lot(s) or acreage.
 2. The location of the proposed construction upon the parcel(s), lot(s), or acreage affected.
 3. The dimensions, height, and bulk of structures.
 4. The nature and the intended use of the proposed construction, alteration, or repair.
 5. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other uses.
 6. The present use of any structure affected by the construction or alteration.
 7. The open space area, if applicable.
 8. The proposed plan and specifications of off-street parking and unloading spaces, if applicable.

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9. Any wetland or floodplain which may be on the property.
10. Any other information deemed necessary by the Planning and Zoning Administrator to determine and provide for the enforcement of this Zoning Code.

Decisions by the Planning and Zoning Administrator relative to approval or denial of a Zoning Compliance Permit may be appealed to the Zoning Board of Appeals.

D. TEMPORARY LAND USE PERMITS.

1. The Planning and Zoning Administrator is authorized to issue a temporary Zoning Compliance Permit for the following temporary land uses upon finding that the nature of the temporary land use conforms to the criteria set forth in §604.D.2., below, and further provided that it meets all other provisions of this Zoning Code:
 - a. Carnival, circus, or fair for a period not to exceed 14 days.
 - b. Open lot sale of Christmas trees, for a period not to exceed 30 days.
 - c. Real estate sales office and/or model home in any district for a maximum period of one year, provided that no cooking or sleeping accommodations are maintained in the structure.
 - d. Contractor's office and/or equipment accessory structures, in any district, for a period of one year, provided that such structures are placed on the property to which it is appurtenant.
 - e. Temporary dwelling accommodations, in any district, for a period not to exceed 365 calendar days, provided that such structures are placed on the property to which it is appurtenant.
2. A temporary Zoning Compliance Permit shall be issued by the Planning and Zoning Administrator, only if each of the following criteria is met by the proposed temporary land use:
 - a. The proposed use is clearly of a temporary nature.
 - b. The temporary use shall not endanger the public health, safety, or welfare of the Village or adjacent residents, or the inhabitants of the structures of the temporary use.

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- c. Temporary structures shall be provided with safe, sanitary, and effective systems for water supply and disposal of wastes approved by the Antrim County Health Department.
 - d. The proposed temporary use will cause no traffic congestion.
 - e. The proposed temporary use shall meet all lot, yard setback, and other requirements of this Code.
 - f. The proposed temporary use is not a Special Land Use of the respective zoning district.
 - g. The proposed temporary use, if it involves a building or structure, shall be in compliance with all construction building codes required by the Antrim County Construction Codes Department.
3. Extension, Revocation, and Appeal.
- a. Zoning Compliance Permits for the temporary uses listed in §604.D.1., above, may be extended in the same manner as the issuance of the original permit.
 - b. Upon expiration or revocation of a Zoning Compliance Permit for a temporary use, the temporary use shall cease and all temporary structures, dwellings, or buildings shall be forthwith removed from the parcel of land.
 - c. The Planning and Zoning Administrator may impose conditions with the issuance of the permit which are designed to ensure compliance with the requirements of this section, and may revoke a permit at any time for non-compliance with the requirements of this section.
 - d. Decisions by the Planning and Zoning Administrator relative to denial of a Zoning Compliance Permit for a temporary land use or removal thereof may be appealed to the Zoning Board of Appeals.

(Ord. passed 3-2-15)

§605. SPECIAL USE PERMITS.

- A. INTENT. This section is intended to provide regulations for Special Use Permits as authorized under the Michigan Zoning Enabling Act, P.A. 110 of 2006, as may be amended, (M.C.L. 125.3101 et seq.). Special land uses are those which may be compatible with other land uses in some, but not all, locations within a particular zoning district. The process for a Special Use Permit includes a public hearing at the Planning Commission prior to their decision. This process is intended to accomplish the following:

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1. Provide a mechanism for public input on decisions involving more intense land uses;
 2. Ensure that both new development and redevelopment are consistent with Village land use goals and objectives as stated in the Master Plan;
 3. Regulate the use of land on the basis of impact to the Village overall, and adjacent properties in particular;
 4. Promote a planned and orderly development pattern which can be served by public facilities and service in a cost effective manner;
 5. Ensure uses can be accommodated by the environmental capability of specific sites;
 6. Ensure that new development and redevelopment are designed in such a manner that will diminish negative impacts of potentially conflicting land uses; and
 7. Provide greater flexibility to integrate land uses within the Village.
- B. APPLICATION, REVIEW AND APPROVAL PROCEDURES. The procedure for Special Use Permit review shall be as follows:
1. Submittal of a complete application to the Planning and Zoning Administrator for a Special Use Permit and payment of established application fee(s) to cover administrative cost and review by consultants.
 2. A complete application shall contain the following:
 - a. Name of proposed development;
 - b. Legal description of the property and address, if available;
 - c. Dimensions of land including; width, length, lot area and acreage;
 - d. Existing zoning classification of subject parcel and of all adjacent properties;
 - e. Proposed use of land;
 - f. Name, address, and phone number of:
 - Firm or individual who prepared the application;
 - Legal owner of the property;

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- Relationship of the Applicant to the property Owner;
 - Signature of the property Owner and the Applicant;
 - A site plan, prepared in accordance with the provisions of §607., of this Code; and,
 - Copies of an Impact Assessment (see §607.C.4.) and/or Traffic Impact Assessment (see §607.D.2.b.) if required.
- C. The Village shall give notice of a proposed Special Use Permit Application in a newspaper of general circulation and written notice to all property owners and occupants of any structure within three hundred (300) feet of the subject property. The notice shall be given not less than fifteen (15) days before the public hearing date, in accordance with State statute as may be amended from time to time. The notice shall state the nature of the Special Use request, the property location, when and where the Special Use request will be considered, where written comments will be received, and the date, time and place of the public hearing.
- D. The Planning Commission shall conduct the required public hearing and shall then review the application for compliance with the requirements of the General Review Standards, §605.G., below, and any specific Special Use Standards of §450., of this Code.
- E. The Planning Commission shall approve, approve with conditions, or deny the Special Use Permit together with the associated Site Plan. The decision on a Special Use Permit request shall be incorporated in a statement of findings of fact and conclusions relative to the Special Use which specifies the basis for the decision and any conditions imposed.
- F. Upon approval of an application for a Special Use Permit, the Planning and Zoning Administrator shall issue the permit. The Planning and Zoning Administrator shall be responsible for ensuring that conditions attached to the approval of the Special Use Permit are implemented.
- G. GENERAL REVIEW STANDARDS FOR ALL SPECIAL LAND USES. The Planning Commission shall determine that the following General Standards, in addition to standards for specific individual Special Land Uses listed in §450., of this Code, are met:
1. The Special Land Use will be consistent with the goals, and objectives described in the Master Plan.
 2. The Special Land Use will be consistent with the stated intent of the zoning district and will promote the intent and purpose of this Zoning Ordinance.
 3. The Special Land Use will be designed, constructed, operated and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity.

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4. The Special Land Use will be compatible with adjacent uses of land and the natural environment.
5. The Special Land Use can be served adequately by public facilities and services such as sufficient roadway capacity, police and fire protection, storm water drainage facilities, water and sewage facilities, and refuse disposal.
6. The Special Land Use is consistent with the public health, safety and welfare of the Village.

H. CONDITIONS OF APPROVAL.

1. Prior to approval a Special Use Permit, the Planning Commission may impose any additional conditions or limitations as provided in this Code, deemed necessary for protection of the public health, safety and welfare. Such conditions shall ensure compliance with the standards in this Code, other Village ordinances and applicable state or federal regulations and may include conditions 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.
2. Conditions imposed by the Planning Commission shall meet all of the following requirements:
 - a. Be designed to protect natural resources, the health, safety, and welfare, as well as the 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 requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
3. Approval of a Special Use Permit, including conditions made part thereof, shall run with the property described in the application and not to the owner of such property.
4. A record of the Special Use Permit approval and any conditions imposed shall be made a part of the Planning Commission meeting minutes and be maintained by the Village Clerk. The conditions shall remain unchanged unless an amendment to the Special Land Use permit is approved in accordance with the provisions of §603.F., above.

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5. The Planning and Zoning Administrator shall make periodic investigations of development authorized by Special Use Permit to determine continued compliance with all requirements imposed by the Planning Commission and this Code. Non-compliance with the requirements and conditions approved for the Special Use Permit shall constitute grounds to issue a “stop work” order and revoke the permit in accordance with §604.D.3, above.

I. VALIDITY OF PERMIT.

1. Where Actual Construction of a substantial nature of the “must be built” items of the development authorized by a Special Use Permit has not commenced within one (1) year of date of issuance, and a written application for extension of the approval has not been filed as provided below, the permit shall become null and void and all rights thereunder shall terminate. It is the responsibility of the Applicant to request such an extension.
2. Upon written application, by the Applicant within the one (1) year period as provided above, the Planning Commission may authorize a single extension of the time limit for a period of not more than one (1) year from the expiration date of the original permit. Such extension shall be granted based only on evidence from the Applicant that the development has a reasonable likelihood to commence construction during the one (1) year extension period.
3. Any Special Use Permit which was approved or which existed prior to the effective date of this Code shall be deemed a permitted use in the zoning district in which it is located and is not to be considered a non-conforming use.
4. Any use for which a Special Use Permit has been granted and which ceases to continuously operate for one (1) year period shall be considered abandoned and the Special Use Permit shall become null and void.

(Ord. passed 3-2-15)

§606. PLANNED UNIT DEVELOPMENT PERMITS.

A. INTENT.

1. It is the intent of this section to provide the Village Council flexibility in the regulation of land development and to encourage innovation and variety in land use, design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the village, county and state, and not unreasonably create any adverse economic, social or environmental impact on surrounding land uses.

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2. Planned Unit Developments (P.U.D.) may be located anywhere in the Village upon approval of a Planned Unit Development Permit by the Village Council provided the requirements of this Code are met. A Planned Unit Development approval shall establish an overlay zone on top of an underlying zoning district. The land use requirements of the underlying zoning district shall establish the base upon which a P.U.D. may be created, subject to the limitations of §606.B. and §606.C., below.

B. DIMENSIONAL AND USE REGULATIONS.

1. A single use P.U.D. shall be a use permitted by Right or approval of a Special Use Permit in the zoning district in which the P.U.D. is to be located. A multiple use P.U.D. shall have at least one of the proposed uses a use permitted by Right in the district where the P.U.D. is located. In addition, the following dimensional and use restrictions apply:
 - a. In residential zones R-1, R-2, R-3, and R-M, the minimum size for a P.U.D. is 2.5 contiguous acres and a density that in no cases is more than 20% greater than the maximum density permitted in the underlying district. Commercial use in a P.U.D. within a residential district is limited to not more than 15% of the total site area, and industrial uses are not permitted. Commercial uses suitable for residential districts are those permitted in residential zoning districts according to §405 of this Code. The amount of the site area devoted to commercial use shall include the following:
 - All land covered by commercially used principal and accessory structures;
 - All related parking and all contiguous open space areas connecting parking to commercial use areas;
 - Required setbacks for the commercial uses from roads, water bodies and lot lines.
 - b. In commercial and industrial zones B-1, B-2, B-3, and I-1, the minimum lot size of the underlying district shall apply to any P.U.D. and at least 75% of the total site area shall be occupied by a use permitted by Right in the underlying district.
2. In acting upon an application for a Planned Unit Development Permit, the Village Council may alter and establish lot size limits, required facilities, buffers, open space areas, density limits, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, miscellaneous regulations, and density and intensity limits, where such regulations or changes are consistent with the intent of this section and the standards set forth herein.

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3. The Village Council may also authorize principal and other uses not permitted in the district where the land is located, provided that such uses are consistent with the intent and standards set forth herein. Dimensional and parking use restrictions of the underlying zoning district shall not apply to the area within an approved P.U.D. unless expressly retained in the permit.

C. CONDITIONS WHICH CREATE ELIGIBILITY.

1. A Planned Unit Development is intended to accommodate developments with mixed or varied uses, sites with unusual topography or unique settings within the Village, or on land which exhibits difficult and costly development problems. Approval will not be granted when the Planned Unit Development is sought primarily to avoid complying with the standards and requirements of existing zoning classifications. Additionally, no Planned Unit Development shall be approved unless it is demonstrated that the land use and development meet the standards and the requirements for issuance of a Special Use Permit as set forth in §605., above.
2. An Applicant for a P.U.D. shall, through written submittals and prior to approval of a P.U.D. application, demonstrate the following eligibility requirements for consideration of a P.U.D. have been met:
 - a. Compliance with the dimensional and use standards in §606.B., above.
 - b. The P.U.D. results in a recognizable and substantial benefit to the ultimate users of the project and to the Village. Such benefit must otherwise be unfeasible or unlikely to be achieved by development under a single zoning district taking into consideration the reasonably foreseeable detriments of the proposed development and use(s); including, without limitation:
 - The long-term protection and/or preservation of natural resources and natural features; historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis;
 - Reducing to a significant extent the non-conformity of a non-conforming use or structure, i.e., modification of a non-conforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.
 - The provision of additional amenities which would not otherwise be provided in a conventional development.

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- c. All land for which application is made must be owned or under control of the Applicant(s) and the parcel must be capable of being planned and developed as one integral land use unit. Non-contiguous parcels may be considered.

D. APPLICATIONS AND APPROVAL REQUIREMENTS.

1. A complete application for a P.U.D. shall be filed with the Planning and Zoning Administrator. The application must be signed by all individuals or entities having an interest in the real property. An affidavit of ownership shall accompany the application.
2. A site plan and all associated documents meeting the submittal requirements of §605., are required prior to the review of a Planned Unit Development request. In addition, an Applicant may be requested to provide the following information:
 - a. A landscape plan that identifies the location and type of individual trees of ten-inch or larger caliper and clusters and types of smaller vegetation.
 - b. The developer's intent and physical, social, and environmental objectives.
 - c. A description of all exterior building materials with an emphasis on:
 - How the proposed architectural design and facade materials will be complimentary to existing or proposed uses within the site and to surrounding uses; and
 - General rooftop appearances, particularly where a rooftop will lie below finished street grade or as may be viewed from the windows of higher adjacent existing or proposed buildings.
 - d. An estimate of the number of school age children (if applicable).
 - e. Proposed financing.
 - f. Impact of development on local streets, schools, parks, public safety and utilities. A traffic impact analysis may be required if more than 500 vehicle trips per day may reasonably be expected to result from the development.
 - g. Market and economic feasibility.
 - h. Proposed phases of the development.
 - i. Such other information pertinent to the development or use as required by the Planning Commission or the Village Council.

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3. Processing of the application will not begin until all required information has been submitted. The Planning Commission may, upon petition therefor by the Applicant, waive a particular submittal requirement, when it documents on the record based on facts presented to it that no good public purpose will be advanced by requiring submittal of requested information.
4. A site plan shall be approved that meets the specific requirements applicable to Planned Unit Developments in this section; the requirements of the specific zoning district; and any other requirements of this Code pertinent to the development. The Planning Commission and the Village Council may impose conditions in accordance with this Code to achieve conformance with these requirements. No site plan shall be approved for a Planned Unit Development that does not meet the requirements of this Code.

E. PROCEDURE.

1. A Planned Unit Development application shall be submitted to the Planning and Zoning Administrator and provided to the Planning Commission for review and recommendation. The Planning Commission shall hold a public hearing with such notice as required by §705.
2. Based upon input from Village staff, other boards or commissions, as well as upon reviews, studies, and reports prepared by professional consultants where warranted, the Planning Commission shall:
 - a. Adopt written findings of fact that the following standards of this Code have been met:
 - The site plan review standards of §605.B.
 - The eligibility requirements of §606.C.
 - The Special Use standards of §605.G.
 - If there is common open space, the requirements of §606.F.
 - All applicable requirements of the underlying zone.
 - b. Find that the P.U.D. proposal has the following characteristics prior to recommending approval of the P.U.D. application:
 - Innovation in land use and variety in design, layout and type of structures constructed;

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- Economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities;
 - Useful open space and improved housing, employment, and/or shopping opportunities particularly suited to the needs of the village area;
 - Innovative reuse and improvement of existing sites and buildings;
 - Consolidation and maximization of usable open space where it is available or required;
 - Landscaping which insures that proposed uses will be adequately buffered from one another and from surrounding public and private property and will create a pleasant pedestrian scale outdoor environment;
 - That a professional engineer with experience in vehicular and pedestrian traffic has determined that the proposed circulation is safe, convenient, uncongested, and well-defined to and within the development;
 - The preservation of existing important natural, historical, and architectural features within the development;
 - That there exists a reasonable harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area; that there is a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use or facade materials is to be discouraged but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.
 - That it will not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- c. After review by the Planning Commission, the Commission shall submit a written recommendation to the Village Council with their findings as to the degree to which the standards of this Code have been met and any conditions which should be imposed should approval be recommended.. In accordance with §705., of this Code, a public hearing shall be held by the Village Council for each Planned Unit Development request properly filed under the terms of this Code.

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- d. Based on a review of the complete application information and site plan submitted, and Planning Commission's recommendations, the Village Council may deny, approve, or approve with conditions a request for a Planned Unit Development. If the Village Council determines that the application is consistent with the intent and eligibility conditions of this Section and with all other standards and requirements contained in this Code, it shall enter an order authorizing development and use in accordance with the application and material submitted, modified as the Village Council may consider necessary to carry out the intent and standards of this chapter and containing any lawful conditions or restrictions which the Village Council may consider necessary to carry out the purposes of this Zoning Code and to protect the public health, safety, and welfare. The order shall recite the finding of fact and the reasons upon which it is based. A performance guarantee meeting the requirements of §602.C., may be required as a condition of approval.
- e. Only upon approval of the Village Council may a Planned Unit Development Permit be issued by the Planning and Zoning Administrator.
- f. The land to which the P.U.D. pertains shall be developed and used in its entirety only as authorized and described in the order approving the Planned Unit Development and only as authorized by the provisions of this Code.
- g. Planned Unit Developments may be constructed in phases, subject to the following:
 - The first phase stands on its own regarding services, utilities, circulation, facilities, and open spaces without the construction of subsequent phases.
 - The conditions for approval of a P.U.D. shall apply to all phases of the P.U.D.
 - Each phase of the P.U.D. not specifically reviewed and approved in the initial processing shall be treated in the same way as a major amendment of the P.U.D. and must therefore be approved by the Village Council following the same procedure as for the original approval.
- h. An order approving a Planned Unit Development permit, including the approved site plan, may be amended in accordance with the requirements of §603.F., above.
- i. The P.U.D. permit shall expire one year from the date of final approval if the applicant has not commenced actual construction. The Village Council shall have the right to extend an order for one additional year if the Village Council determines that the sub-

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divider has pursued the development in good faith and without unreasonable delay, and that the plan conforms to the requirements of the Zoning Code as of the date of the extension. An order may be cancelled by written agreement executed by the owner of the land to which it pertains and the Village Council at any time when the development and use of the land is in conformance with all provisions of this Code which would apply if such order had not been issued. The P.U.D. order may be rescinded at any time by the Village Council for violation of the order by the applicant, its successors, agents or assigns after notice to the current owners and occupants of the P.U.D. area and after a hearing on the violation. Upon cancellation, the zoning requirements shall revert to the current requirements for the zoning district designated for the property prior to the order.

- j. A Planned Unit Development approval shall not be considered an amendment to this Zoning Code.
 - k. The Applicant shall record an affidavit with the Antrim County Register of Deeds containing the full legal description of the project site, specifying the date of final Village approval, and declaring that all improvements will be carried out in accordance with the approved P.U.D. plan unless an amendment is adopted by the Village. In addition, all deed restrictions and easements shall be duly filed with the Antrim County Register of Deeds and copies of recorded documents presented to the Planning and Zoning Administrator and filed with the Village Clerk. Issuance of a Planned Unit Development Permit is conditioned upon receipt of any required deed restriction.
 - l. Any standard or requirement applicable to a use in an underlying zone may be waived or altered by the Village Council upon the recommendation of the Planning Commission where doing so still results in a project that otherwise meets the standards of this Code without creating a nuisance for abutting properties or materially reducing the value, use or enjoyment of abutting properties.
- F. APPEAL TO CIRCUIT COURT.
- 1. An appeal on a decision by the Village Council to approve, deny or approve with conditions a Planned Unit Development Permit may be taken to Circuit Court, County of Antrim, and may not be appealed to the Board of Appeals.
(Ord. passed 3-2-15)

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§607. SITE PLAN REVIEW REQUIREMENTS.

- A. PURPOSE. The purpose of this section is to ensure that appropriate information about proposed development of land and structures is submitted and reviewed to establish conformance or non-conformance with the requirements of this Code and any other applicable local, county, state or federal regulations. To this end, specific data submittal requirements, review procedures and standards to guide review and approval of site plans are set forth.
- B. USES REQUIRING SITE PLAN APPROVAL. Site plan approval is required as follows:
1. For all uses requiring a Special Use Permit as specified in each zoning district.
 2. For all uses within light industrial zones, public lands, and all multi-family and mobile home parks in the RM zones as identified in §302., of this Code; except that the Planning and Zoning Administrator or Planning Commission, when requested by the Planning and Zoning Administrator, may waive site plan review and approval where a change of use requires no new buildings or structures, no expansion of existing structures or buildings and no new parking.
 3. All Planned Unit Developments.
 4. All other uses shall conform to the requirements of §602. and §603., above.
- C. DATA REQUIRED.
1. Every site plan for a Special Use Permit shall be submitted to the Planning and Zoning Administrator in 13 identical copies on one or more sheets of paper measuring not more than 24 by 36 inches, drawn to a scale not more than 50 feet to the inch, except that for P.U.D.'s, 20 copies of the proposed site plan shall be submitted. Additionally, three copies of site plan shall be submitted to the Planning and Zoning Administrator at a size and scale acceptable to the Planning and Zoning Administrator.
 2. The site plan shall be prepared by a state registered or AICP certified professional community planner, a licensed civil engineer, licensed land surveyor, state registered landscape architect, or licensed architect.
 3. All site plans shall include the following as applicable in the discretion of the Planning and Zoning Administrator or Planning Commission, (whose opinion shall rule in the event of a difference):
 - a. Legal description, plat name, lot numbers, property lines including angles, dimensions, and a reference to a section corner, quarter corner, or point on a recorded plat.

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- b. Names, addresses, and phone numbers of property owners and applicants.
- c. Name and address of preparer.
- d. Scale, north arrow, date prepared and last updated, and location map.
- e. Name, location, and width of streets, alleys, sidewalks, drives, easements, and utilities.
- f. Existing natural features, including all trees and woods on site and all streams, lakes, ponds, and the like on site and within 500 feet, with an indication as to which will be retained and which removed or altered by earth changes.
- g. Zoning classification of site and surrounding properties and any variances to be requested.
- h. Required setback lines, yard dimensions, R.O.W. lines, water, sewer and electric lines, other public utilities, septic systems, drain fields, wells (active or abandoned), and underground storage tanks (active or abandoned).
- i. Proposed building use and shape, dimensions, locations, lot area, floor coverage, lot coverage percentage, building height, and floor elevation.
- j. Existing buildings and improvements on and within 50 feet of the subject parcel including existing and proposed trash receptacles, dumpsters, and the location and specifications of any proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as any containment structures or clear zones required by government authorities.
- k. Existing and proposed grades and drainage systems and structures with topographic contours at intervals not exceeding two feet vertical, including bench mark location and location of on-site retained water with calculations.
- l. Required and proposed number and location of parking spaces, maneuvering lanes, driveways, and loading areas, their dimensions, proposed points of access to the site from public streets and alleys, surface materials and minimum parking as required in §530., of this Code.
- m. Proposed location of all signs, walkways, landscaped areas, recreational areas, open space, screen walls and greenbelts.
- n. Any other information necessary to establish compliance with Village ordinances.

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- o. A project description that summarizes the total number of structures, units, bedrooms, offices, square feet by building and use, total and usable floor area, carports or garages, employees by shift, amount of recreational and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by this Code.
4. In the discretion of the Planning and Zoning Administrator or the Planning Commission (whose opinion shall rule in the event of a difference), the applicant shall provide a written Impact Assessment which shall include the following information as applicable:
- a. A written description of the environmental characteristics of the site prior to development, such as topography, soils, plant materials drainage, streams, creeks, or ponds.
 - b. Types of uses and other man-made facilities.
 - c. The number of people to be housed, employed, visitors or patrons, and vehicular and pedestrian traffic to be generated.
 - d. Phasing of the project, including ultimate development proposals.
 - e. Natural features which will be retained, removed, and/or modified, including vegetation, drainage, hillsides, streams, wetlands, woodlands, wildlife, and water. The description of the areas to be changed shall include their effect on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.
 - f. The method to be used to serve the development with water and sanitary sewer facilities.
 - g. The method to be used to control drainage on the site and from the site. This shall include runoff control during periods of construction.
 - h. If public sewers are not available to the site, a current approval from the health department or other responsible public agency indicating approval of plans for sewage treatment.
 - i. The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site, and consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.

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- j. An indication of how the proposed use conforms to existing and potential development patterns and any adverse effects.
 - k. Description of measures to control soil erosion and sedimentation during grading and construction operations and until a permanent ground cover is established. Recommendations for such measures may be obtained from the Antrim County Soil Erosion Control Department.
 - l. Type, direction, and intensity of exterior lighting.
 - m. General description of deed restrictions, if any.
 - n. Name(s) and address of person(s) responsible for preparation of statement.
5. Additionally, the Applicant shall provide certification that all other state and federal statutes and regulations have been met.

D. SITE PLAN APPROVAL STANDARDS.

1. Site plans shall conform to the requirements of §607.D.2. and §607.D.3., below in addition to any other applicable provisions of this Code. In particular, Special Land Uses shall comply with the standards in §605., and Planned Unit Developments with the standards in §606., above.
2. Each site plan shall conform with the following standards:
 - a. Drainage, groundwater and wellhead protection:
 - Site plans shall fully conform to the Antrim County Soils Erosion and Storm Water Runoff Control Ordinance. A statement by the applicant certifying conformance along with required storm water calculations shall be indicated on the site plan drawing.
 - The project and related improvements shall be designed to protect land and water resources from pollution, including pollution of soils, groundwater, rivers, streams, lakes, ponds and wetlands.
 - Storm water detention, retention, transport and drainage facilities shall be designed to use or enhance the natural storm water system on-site, including the storage and filtering capacity of wetlands, watercourses and water bodies, and/or the infiltration capacity of the natural landscape. Storm water facilities shall not

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cause flooding or the potential for pollution of surface or groundwater, on-site or off-site.

- b. Traffic: Site plans shall fully conform to the driveway and traffic safety standards of the Village, and, as may be applicable, the Michigan Department of Transportation. If deemed necessary, the reviewing body may require a Traffic Impact Assessment indicating that pedestrian and vehicular traffic movement within and adjacent to the site appears to be safe and convenient with particular emphasis on the layout of parking areas; off-street loading and unloading; and movement of people, goods and vehicles from access streets, within the site, and between buildings and vehicles. The report shall also indicate that all parking spaces are appropriately designed taking into consideration standards applicable to the proposed project, and that such parking spaces are also conveniently arranged. Access to the site from adjacent streets shall be designed in accordance with standards published by the Michigan Department of Transportation, and the engineer's report shall indicate such access will have minimum negative impact on traffic flow.
- c. Public safety: Site plans shall fully conform to the applicable fire safety and emergency vehicle access requirements of B.O.C.A. as amended.
- d. Public health: Site plans shall fully conform to the requirements of the Michigan Department of Public Health and the District 3 Health Department.
- e. Compliance: Site plans shall fully conform to all applicable state and federal statutes.
- f. Hazardous substances management: The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment including the following:
 - 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, groundwater, lakes, streams, rivers, or wetlands.
 - Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
 - General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to an on-site closed holding tank (not a septic

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system), or regulated through a State of Michigan groundwater discharge permit.

- State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
 - Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the Michigan Department of Natural Resources.
 - Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.
3. In reviewing every site plan, the Planning and Zoning Administrator, Planning Commission, and Village Council (as appropriate) will receive reports, including reports of professionals in the field, and endeavor to analyze, to the best of the reviewing body's ability, that the following features are designed so as to protect public health and safety, prevent harm, protect sensitive natural features and result in a quality design consistent with community standards as reflected in the Master Plan and this Code:
- a. The design and layout of buildings and parking areas shall be reviewed so as to provide an aesthetically pleasing design and efficient arrangement. The applicant shall provide certification from the appropriate approval authority, that all buildings are constructed in accordance with state fire and safety codes, and that the proposed design takes into consideration the impact on surrounding development, contiguous and adjacent buildings and lands.
 - b. Any exterior lighting must be designed in a fashion to prevent illumination of the night sky, and shall be shielded from adjacent properties.
 - c. Buffering shall be located around the perimeter of the site to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles, and to shield activities from adjacent properties when necessary. Buffering may consist of fencing, evergreens, shrubs, bushes, deciduous trees, or combinations thereof to achieve the stated objectives and when designed consistent with the standards of this Code.

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- d. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangement, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, other plants, sculpture, art and the use of the building and paving materials in an aesthetically pleasing manner consistent with the standards of this Code.
 - e. Signs shall be designed so as to be aesthetically pleasing, harmonious with other signs on the site, and if any such signs are located within ten feet of a sidewalk, driveway, access drive or road, the applicant shall provide certification from a professional knowledgeable in the field of traffic movement, that such signs do not pose a hazard to either vehicles or pedestrians, and such signs shall in all other respects meet the requirements of this Code.
 - f. Sanitary waste disposal, water supply, and garbage disposal shall conform to all requirements of responsible agencies and be designed so as to accommodate future anticipated needs.
 - g. Garbage disposal shall be designed to ensure no vermin or rodent infestation. All disposal systems shall meet municipal specifications as to installation and construction. Recycling facilities are encouraged.
 - h. The design and layout of buildings and parking areas shall minimize soil exposure and erosion, and shall provide for protection of watercourses and wetlands. Any proposed project located within 500 feet of a watercourse or 500 feet of a designated wetlands area (as defined by state statute) shall require the submission of a specific plan and statement clearly establishing that the watercourses and wetlands have, to the extent reasonably possible within the site of the proposed project, been preserved and protected.
4. Building Design Standards. The Planning Commission may impose reasonable design conditions related to all buildings and accessory structures proposed under this section for the purpose of ensuring that buildings and accessory structures shall be designed such that:
- a. There exists a reasonable harmonious relationship between the locations and visual scale of building(s) on the site relative to buildings on lands in the surrounding area.
 - b. There is reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design or use of non-typical facade materials be prohibited, but rather that care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse visual effect on the harmony, stability and value of the surrounding area.

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- c. The preservation of existing important natural, historical and architectural features within the development is maintained.

E. REVIEW AND APPROVAL PROCESS.

1. All site plans shall be submitted to, reviewed by, and if in conformance with the requirements of this Code, approved by the Planning and Zoning Administrator except for site plans for a Special Use Permit or a Planned Unit Development Permit which shall be reviewed as follows:
 - a. Upon receipt of a complete application and plans, the Planning and Zoning Administrator shall record the date of their receipt and transmit the following copies of the plans and application as supplied by the applicant to the following:
 - One copy to each of the Planning Commission member for Special Use applications;
 - One copy to each of the Planning Commission and Village Council members for Planned Unit Development applications;
 - One copy to the Fire and Emergency Services Department when necessary;
 - One copy to the Village Manager;
 - One copy to the Village planning consultant or engineer, as appropriate; and,
 - One copy to be retained by the Planning and Zoning Administrator.
 - b. A site plan shall be reviewed at the public hearing required by the Planning Commission for a Special Use Permit or Planned Unit Development Permit application. A public hearing to receive comment on other site plans shall be scheduled by the Planning and Zoning Administrator for any project for which an escrow fee pursuant to §602.C., was collected, or for any other site plan that the Planning Commission votes to be subject to a public hearing. Such public hearings shall be preceded by notice processed according to the requirements of §705. Plot plans submitted pursuant to §604.C., and uses for which a site plan was waived pursuant to §607.B.2., are not subject to a public hearing.

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- c. At the public hearing, a review of the application, plans, and of the recommendation of the Planning and Zoning Administrator or any other public agency or consultant whose comments have been solicited with regard thereto, will be summarized and public comment solicited thereon. Members of the Planning Commission shall be delivered copies of any professional or staff review of a site plan prior to the hearing for their preliminary information and study.
 - d. After conducting any required public hearing and discussing a proposed site plan, the Planning Commission shall deny, approve, or approve with conditions, the site plan, based on conformance with the requirements and standards contained in this Code. Any conditions required by the Planning Commission shall be stated in writing and shown on the site plan, together with the reasons therefor and delivered to the applicant.
 - e. Two copies of the approved site plan, along with any conditions thereto, shall be maintained as part of the village records for future review and enforcement. One additional copy shall be returned to the applicant. Each copy shall be signed along with the date of approval by the Chair of the Planning Commission for identification of the approved plans. If any variances from the Zoning Code 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 a copy delivered to the applicant.
2. Site plans for which the Planning and Zoning Administrator is responsible for review and approval, or rejection if not in conformance with Zoning Code requirements, shall be processed as follows:
 - a. All complete applications and site plans shall be recorded as to date of receipt.
 - b. The Planning and Zoning Administrator shall review the application and site plan and such reports from public agencies and abutting property owners as were solicited or received, as well as the degree of conformance or non-conformance of the site plan to all applicable standards of the Zoning Code and prepare a written set of findings, conditions and the decision on the request. Any conditions shall be stated in writing and shown on the site plan, together with the reasons therefor and a copy delivered to the applicant.
 - c. Two copies of the approved site plan, along with any conditions thereto, shall be maintained as part of the village records for future review and enforcement. One additional copy shall be returned to the applicant. Each copy shall be signed along with the date of approval by the Planning and Zoning Administrator. If any variances have been obtained from the Zoning Board of Appeals, the minutes

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concerning the variances, duly signed, shall also be filed with the village records as part of the site plan and a copy delivered to the applicant.

- d. The Planning and Zoning Administrator may request that the Planning Commission review and approve any site plan which otherwise would not require their approval. In such case, the procedure in §607.E.1., shall be followed.
- e. A decision of the Planning and Zoning Administrator on a site plan for other than Special Use Permit or Planned Unit Development Permit may be appealed to the Zoning Board of Appeals.
- f. Once each month the Planning and Zoning Administrator shall prepare a list of all pending site plans and those that have been approved since the last list was prepared. The list shall be provided to the Planning Commission before their next regularly scheduled meeting.

F. DENIAL OR APPROVAL WITH CONDITIONS.

- 1. Site plans for Special Use Permits, Planned Unit Development Permits, or other discretionary approvals, may be approved with reasonable conditions.
- 2. The conditions may include conditions 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.
- 3. A site plan shall be approved if it contains the information required and is in compliance with this Zoning Code and with the conditions imposed pursuant to this Zoning Code, other village planning documents, other applicable ordinances, and state and federal statutes.
- 4. The decision to deny, approve, or approve with conditions a site plan shall be based upon requirements and standards contained in this Zoning Code, other village planning documents, other applicable ordinances, and state and federal statutes.
- 5. Once the site plan is approved and properly signed, any necessary Special Use Permit, Planned Unit Development Permit, Zoning Compliance Permit, or building permit may be issued.

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G. CONFORMITY TO APPROVED SITE PLANS.

1. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the permit-issuing authority. If construction and development does not conform to such approved plans, the owner shall be cited with a violation and notified that following a hearing, the permit may be revoked. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.

G. APPEALS OF SITE PLAN DECISIONS.

1. An appeal of a site plan decision by the Planning and Zoning Administrator may be taken to the Zoning Board of Appeals in the same manner as other administrative decisions, except that no appeal of a site plan decision may be taken to the Zoning Board of Appeals if it involves a Special Use Permit or a Planned Unit Development Permit.
(Ord. passed 3-2-15)

§608. PLATS OF SUBDIVISIONS, CONDOMINIUM SUBDIVISIONS, AND SITE CONDOMINIUMS

A. REGULATION OF SUBDIVISIONS, CONDOMINIUM SUBDIVISIONS AND SITE CONDOMINIUMS.

1. Subdivisions, including condominium subdivisions and site condominiums, are subject to a multi-step approval process. Physical improvements to the land to be subdivided are authorized by a final preliminary plan approval as provided in §608.D., and the sale of lots in plats of subdivision are permitted after final plat approval as provided in §608.E.
2. Lot splits shall be subject to the requirements of §533.G.8.

B. GENERAL REGULATIONS FOR THE SUBDIVISION OF LAND.

1. §608.A. through §608.D. apply to applications for condominium subdivisions and site condominiums in addition to subdivisions being approved under the provisions of the Subdivision Control Act.
2. No person may subdivide land except in accordance with all of the provisions of this Zoning Code applicable to the subdivision of land. In particular, no person may subdivide land unless and until a final plat of the subdivision has been approved in accordance with the provisions of §608.E.1. through §608.E.4.

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3. The Antrim County Register of Deeds may not record a plat of any subdivision within village jurisdiction unless the plat has been approved in accordance with the provisions of this Zoning Code.
- C. OPTIONAL PRE-APPLICATION CONTACT AND SKETCH PLAN
1. SUB-DIVIDER DISCRETION. The utilization of pre-application procedures for pre-preliminary plat or site condominium plans as provided in this section is not authorized by statute. Its use, then, is entirely at the discretion of the sub-divider. The sub-divider is encouraged to use the procedure because of the advantages to the sub-divider as identified in the purposes outlined in this sub-section. One advantage is that the Planning Commission can give approval prior to the sub-divider incurring the expense of preparing complete preliminary plat or site condominium plan submission. The sub-divider desiring to utilize preliminary plat procedures may so advise the Village Clerk and the Planning Commission at the time the preliminary plat or site condominium plan is submitted as provided.
 2. PURPOSE. The purpose of pre-application procedure is:
 - a. To provide guidelines for the sub-divider concerning development policies of the village.
 - b. To acquaint the sub-divider with the platting procedures and requirements of the Village Council and Planning Commission, as well as other agencies.
 - c. To provide the Planning Commission and other affected agencies with general information concerning the proposed development.
 3. Acceptance of the sketch plan does not assure acceptance of the preliminary plat or site condominium plan.
 4. REQUIREMENTS.
 - a. The pre-preliminary plat or sketch plan shall show the subdivision's entire development scheme in schematic form, in accordance with the requirements of §533., including the area for immediate development, and shall include the following:
 - General layout of streets, blocks and lots in sketch form in accordance with §533.D.
 - Existing conditions and characteristics of the land on and adjacent to the site, including the developer's total land holdings, buildings, and land uses adjacent to the site.

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- Any general area set aside for schools, parks, and other community facilities.
 - b. A letter from a licensed surveyor concerning the general feasibility of the land for subdividing shall accompany the sketch plan.
 - c. The Village Council and Planning Commission may require such proof of ownership of the land proposed to be subdivided as they deem necessary.
 - d. A finding of fact and environmental assessment shall accompany the sketch plan.
5. PROCEDURE.
- a. The sub-divider shall submit thirteen copies of the pre-preliminary plat or site condominium plan to the Planning and Zoning Administrator ten days before the next meeting of the Planning Commission.
 - b. The Planning and Zoning Administrator shall promptly transmit the thirteen copies of the pre-preliminary plat or site condominium plan to the Planning Commission.
 - c. The Planning Commission and village staff will review the plan with the sub-divider or his/her agent. The Commission may also require that copies of the pre-preliminary plat or site condominium plan be submitted to other affected public agencies for review.
 - d. The Planning Commission shall inform the sub-divider or his/her agent of village development policies and make appropriate comments and suggestions concerning the proposed development scheme.
 - e. The Planning Commission may hold a public hearing on the proposed plat or site condominium plan, unless the plat or site condominium plan has been the subject of a previous public hearing as a zoning change request.
 - f. The Planning Commission shall inform the Village Council of the results of the review of the pre-preliminary plat or site condominium plan.

D. PRELIMINARY PLATS FOR TENTATIVE PRELIMINARY APPROVAL OF PROVISIONS

1. REQUIREMENT. Before making or submitting a final plat or site condominium plan for approval, the proprietor shall make a preliminary plat or site condominium plan and submit copies to authorities as provided in Sections 111 to 119 of the Subdivision Control Act, being M.C.L.A. §§ 560.111 through 560.119, and the appropriate provisions of this Zoning Code. A preliminary plat shall show the subdivision or site condominium plan layout in sufficient detail on a topographic map to enable a determination of whether the

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subdivision or site condominium meets village requirements for lots and streets including drainage, wetlands and floodplains.

2. SUBMITTAL AND VALIDATION. The sub-divider shall first submit to the Planning and Zoning Administrator for validation, sufficient copies of the preliminary plat or site condominium plan and proposed protective covenants and deed restrictions to meet the requirements of Section 111 through 119 of the Subdivision Control Act, being M.C.L.A. §§ 560.111 through 560.119. The sub-divider shall also submit a written application for approval and also the fee established by the Village Council for review of plat or site condominium plans.
3. SIZE AND SCALE. The preliminary plat or site condominium plan shall be on paper or other drafting medium not less than 18 inches by 24 inches, at a scale of at least one-inch to 100 feet showing the date and north arrow.
4. INFORMATION REQUIRED. The following shall be shown on the preliminary plat or site condominium plan or submitted with it in accordance with the requirements of §501.AG.
 - a. The name of the proposed subdivision.
 - b. Names, addresses and telephone numbers of the sub-divider and the surveyor preparing the plat or site condominium plan.
 - c. Location of the subdivision, giving the numbers of section, village and range and the name of the village and county.
 - d. The names of abutting subdivisions or site condominiums.
 - e. Statement of intended use of the proposed plat or site condominium plan, such as the following: residential single-family, two-family and multiple housing; commercial, industrial, recreational, or agricultural.
 - f. Statement of proposed sites, if any, for multi-family dwellings, shopping centers, churches, industry, and nonpublic uses exclusive of single-family dwellings. Also, any sites proposed for parks, playgrounds, schools, or other public uses.
 - g. A map of the entire area scheduled for development and all contiguous land owned by the proprietor, if the proposed plat or site condominium plan is a portion of a larger holding intended for subsequent development.
 - h. A location map showing the relationship of the proposed plat or site condominium plan to the surrounding area.

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- i. The land use and existing zoning of the proposed subdivision and the adjacent tracts.
 - j. Contours shown on the preliminary plat or site condominium plan at five-foot intervals where slope is greater than 10% and two-foot intervals where slope is 10% or less.
 - k. Streets, street names, right-of-way and roadway widths, lot lines and total number of lots by block; proposed and existing storm and sanitary sewers, water mains and their respective profiles and any other such improvements in accordance with §533., of this Code.
 - l. A site report as described in the rules of the State Department of Public Health, if the proposed subdivision will not be served by a public sewer and water system.
5. PRELIMINARY ENGINEERING PLANS.
- a. The sub-divider shall submit three sets of preliminary engineering plans for streets, water, sewers and other required public improvements. The engineering plans shall contain enough information and detail to enable the Planning Commission to make preliminary determination as to conformance of the proposed improvements to applicable village regulations and standards.
 - b. Procedures; tentative approval of preliminary plat or site condominium plan.
 - Distribution to authorities. The proposed preliminary plat or site condominium plan shall be delivered to the Village Council with simultaneous delegated reference to the Planning Commission for preliminary review. (The Village Council has 90 days before rendering tentative preliminary approval). The Village Council shall refer the proposed plat or site condominium plan to the next meeting of the Village Planning Commission and send a copy to the Village Planner. The reference will be simultaneous and carried out by the Village Clerk upon receipt of the plat or site condominium plan from the proprietor.
 - Staff review. The Planning and Zoning Administrator or a certified professional planner shall send recommendations to the Planning Commission.
6. ACTIONS.
- a. Planning Commission actions:
 - The Planning Commission shall review the preliminary plat or site condominium plan and the Planning Commission may hold a public hearing on the proposed

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plat or site condominium plan, unless the plat or site condominium plan has been the subject of a previous public hearing.

- If the preliminary plat or site condominium plan meets all the requirements of this Zoning Code, the Planning Commission shall send notice of action taken with comments to the Village Council. If the preliminary plat or site condominium plan does not meet all requirements of this Zoning Code, the Planning Commission shall notify the sub-divider by letter, giving the earliest date for re-submission of the plat or site condominium plan and additional information required.
- The Planning Commission shall give its report to the Village Council not more than 60 days after receipt by the Village Clerk. The 60-day period may be extended if the applicant consents. If no action is taken within 60 days, the preliminary plat or site condominium plan shall be deemed to have been approved by the Planning Commission.

b. Village Council actions:

- The Village Council shall not tentatively review, approve, or deny a tentative preliminary plat or site condominium plan until it has received the Planning Commissions report and recommendations.
- The Village Council shall consider, review, approve or deny the tentative preliminary plat or site condominium plan at its next meeting, but not later than 90 days after the date the preliminary plat or site condominium plan was received by the village.
- The Village Council shall, within 90 days after the date the complete preliminary plat or site condominium plan application was received by the village, either reject the preliminary plat or site con-division plan and give its reasons, or set forth in writing the conditions for granting tentative approval.

8. CONDITIONS AND DURATION OF TENTATIVE APPROVAL.

- a. Tentative approval of a preliminary plat or site condominium plan shall not constitute approval of the preliminary plat or site condominium plan, but rather the preliminary plat or site condominium plan approval shall be conditioned on all requirements being met.
- b. Approval of the tentative preliminary plat or site condominium plan by the Village

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Council shall be for a period of one year from the date of its approval by the Village Council. The Village Council may extend the one-year period upon application by the sub-divider if the Village Council determines that the sub-divider has pursued the development in good faith and without unreasonable delay, and that the plan conforms with the requirements of the Zoning Code as of the date of the extension. An extension shall be granted in writing.

9. FINAL APPROVAL OF PRELIMINARY PLAT OR SITE CONDOMINIUM PLAN.

a. The sub-divider shall prepare the preliminary plat or site condominium plan in accordance with the specific requirements of the following agencies and obtain their approvals. The above approvals may be sought concurrently or consecutively at the option of the sub-divider.

- County Road Commission (three copies).
- Antrim County Drain Commissioner (three copies).
- Michigan Department of Transportation (two copies).
- Michigan Department of Natural Resources (two copies).
- Antrim County Health Department (two copies).
- Village Planning Commission (thirteen copies).

b. The sub-divider shall submit the preliminary plat or site condominium plan to the Village Council for approval when there has been compliance with all the applicable provisions of the Subdivision Control Act as amended. All conditions set forth by agencies in sub-section D.9.a. above, must be noted on preliminary plat or site condominium plan for future reference. Village Council shall approve or reject the plat or plan within 20 days of submission.

10. CONDITIONS AND DURATION OF PRELIMINARY PLAT.

a. Approval of a preliminary plat or site condominium plan shall not constitute approval of the final plat or site condominium plan. Final plat or site condominium plan approval shall be conditioned on all requirements being met.

b. Approval of the preliminary plat or site condominium plan by the Village Council shall be for a period of two years from the date of its approval after approval by the

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other required authorities. The Village Council may extend the two year period upon application by the sub-divider. An extension shall be granted in writing.

11. COMMENCEMENT OF PLAT CONSTRUCTION.

- a. Plat construction may commence after Village Council approval of the preliminary plat or site condominium plan.

E. FINAL PLATS

1. REQUIREMENTS.

- a. Final plats shall be prepared and submitted as provided for in the Subdivision Control Act.
- b. A written application for approval and the recording fee shall accompany all final plats.
- c. The sub-divider shall submit proof of ownership of the land included in the final plat in the form of an abstract of title certified to the date of the proprietor's certificate, or a policy of title insurance currently in force.
- d. The village may require such other information as it deems necessary to establish whether the proper parties have signed the plat.
- e. Time of submittal. In the event of any significant changes, final plats shall be submitted to the Planning and Zoning Administrator at least ten days before a meeting of the Planning Commission.

2. SUBMITTAL TO APPROVING AUTHORITIES. The sub-divider shall submit the final plat and as-built engineering plans where required for approval to the following:

- a. Antrim County Road Commission. For approval when a village street abuts a county road.
- b. Antrim County Drain Commissioner. Issuance of a letter of approval or rejection. The letter shall be issued within ten days of submission.
- c. Antrim County Health Department. For issuance of a letter of approval or rejection.

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- d. Planning Commission through the Planning and Zoning Administrator. For recommendations to the Village Council.
- e. Planning and Zoning Administrator. For approval or rejection by the Village Council.

3. PLANNING COMMISSION ACTIONS.

- a. The Planning Commission shall examine the plat at its next regular meeting, or within 30 days of receipt thereof, for conformance to:
 - The provisions of the Subdivision Control Act.
 - The provisions of this Zoning Code.
 - The preliminary plat, as approved.
- b. The time for review and recommendations by the Planning Commission may be extended by agreement with the sub-divider.
- c. If the Planning Commission recommends denial of the plat by the Village Council, it shall state its reasons in its official minutes and forward them to the Village Council, and recommend that the Village Council deny the final plat until reasons for denial have been eliminated to meet with the approval of the Planning Commission.
- d. Planning Commission recommendations for approval of the plat by the Village Council shall be accompanied by a report.

4. VILLAGE COUNCIL ACTIONS.

- a. The Village Council shall review the final plat and the report from the Planning Commission at its next regular meeting or at a meeting to be called within 20 days of receipt from the Planning Commission.
- b. The Village Council shall approve or deny the plat. If denied, the Village Council shall give the sub-divider its reasons in writing.
- c. The Village Council shall instruct the Village Clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection, and to sign the municipal certificate on the approved plat on behalf of the Village Council.

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5. IMPROVEMENTS AND FACILITIES REQUIRED BY THE VILLAGE.

- a. The Village Council may require all improvements and facilities to be completed before it approves the final plat.
- b. If improvements and facilities are not required to be completed by the Village Council before plat approval, the final plat shall be accompanied by a contract between the sub-divider and the Village Council for completion of all required improvements and facilities, which shall be prepared at the expense of the sub-divider and approved as to form by the Village Attorney.
- c. Performance of the contract shall be guaranteed by a cash deposit, certified check, surety bond, or irrevocable bank letter of credit.
- d. The Village Council shall not require a bond duplicating any bond required by another governmental agency.
- e. Such surety shall be rebated or credited to the account of the sub-divider as the work progresses, as included in a written agreement between the Village and sub-divider.

6. CONDITIONS FOR VILLAGE APPROVAL OF FINAL PLAT.

- a. With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:
 - The construction of improvements required by this Zoning Code shall have been completed by the sub-divider and approved by the Village Council.
 - Surety acceptable to the Village Council shall have been filed in the form of a cash deposit, certified check, negotiable bond, irrevocable bank letter of credit or surety bond.
- b. Before approval of a final plat, an agreement between the sub-divider and the Village Council shall be made to provide for checking or inspecting the construction of public improvements and conformity to plans.
- c. In the event the sub-divider shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Village Council to proceed to have such work completed if there are monies available for their reimbursement. In order to accomplish this, the Village Council shall

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reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit, or negotiable bond which the sub-divider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, as included in a written agreement between the Village Council and the sub-divider.

7. COUNTY PLAT BOARD. Upon approval, the Village Council shall refer the plat to the Antrim County Plat Board for approval and referral to the State Department of Commerce.
8. STATE DEPARTMENT OF TREASURY. Approval shall be received from the State Department of Treasury in accordance with Sections 169 through 171 of Act 288 of the Public Acts of 1967, being M.C.L.A. §§ 560.169 through 560.171.
9. RECORDING OF PLAT. Sale of lots cannot take place until the final plat is recorded by the Antrim County Register of Deeds.
(Ord. passed 3-2-15)

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CHAPTER 700 – ADMINISTRATION AND
ENFORCEMENT

APPENDIX – “A”

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**CHAPTER 700
ADMINISTRATION AND ENFORCEMENT**

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§701. PLANNING COMMISSION.

A. ESTABLISHMENT.

1. The Planning Commission for the Village of Elk Rapids is established as authorized by P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L.A. §§ 125.3801 et seq. for the purpose of having planning and zoning in the Village, to create, organize, enumerate powers and duties, and to provide for the regulation and subdivision of land; coordinated and harmonious development of the Village; and to function in cooperation with other constituted authorities of incorporated and unincorporated areas within the State of Michigan. The Planning Commission shall perform its duties and exercise its powers as therein set forth and as provided by this Code such that the intent of this Code is observed and the health, safety and welfare of the public are secured.

B. MEMBERSHIP; TERMS AND CONDITIONS OF OFFICE.

1. The Planning Commission shall consist of seven (7) members appointed by the Village Council. Individuals shall meet the following qualifications to be considered for appointment and/or reappointment to the Planning Commission:
 - a. Shall be a qualified elector of the Village, except one non-qualified elector may be a member and one member shall be a Trustee of the Village Council subject to the approval of the Village Council by majority vote and shall serve as an ex-officio member. An ex-officio member shall not be Chair of the Planning Commission;
 - b. Shall not be a declared candidate for any village political office, except this condition shall not apply to the Village Council representative to the Planning Commission;
 - c. Upon completion of individual's first full term and before reappointment, shall have attended training for Planning Commission members, pursuant to sub-section B.5., below;
 - d. Shall not be an employee of the Village and, with the exception noted in sub-section B.1.a., above, shall not hold another elected or appointed Village office except that one of the members shall be appointed to serve as a member of the Zoning Board of Appeals.
2. The membership shall be representative of the important geographic and interest segments of the Village to the extent possible, as follows:
 - a. Government;

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- b. Education;
 - c. Natural resources/environmental;
 - d. Commerce;
 - e. Industry;
 - f. Other, so as to achieve diversity.
3. Members shall be appointed for three year terms. Terms shall be overlapping to provide for the appointment of an equal number of members each year. A successor member must be appointed within one month following the expiration of the previous term.
 4. Vacancies occurring other than through the expiration of the term shall be filled for the unexpired term in the same manner as the initial appointment, such that, as nearly as possible, the terms of one-third of all commission members continue to expire each year.
 5. Training. Appointed members of the Planning Commission shall attend educational programs designed for training members of Michigan planning commissions if the adopted village budget for that fiscal year includes funds to pay for tuition, registration and travel expenses for the training. Nothing in this section shall deem a member who has not had training from finishing his/her term of office unless the member resigns or is removed by action of the Village Council. The member shall be ineligible for reappointment at the conclusion of a full term of office if they did not complete the required training. The Planning Commission shall include in its bylaws what training programs qualify to meet this requirement.
 6. Removal from office.
 - a. The Village Council may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Planning Commission meetings shall be considered nonfeasance in office.
 - b. The Planning and Zoning Administrator shall report to the Village Council any member who has missed three regular meetings in a row.
 - c. Members compensation. Members of the Planning Commission shall serve as such without compensation unless otherwise established by resolution of the Village Council.

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C. MEETINGS.

1. The Planning Commission may schedule a meeting once each month but shall meet at least four times per calendar year. The majority of the total number of seats of the Commission, regardless if vacancies exist or not, shall constitute a quorum. A quorum shall be necessary for the transaction of ordinary business and a majority vote of the members of the Commission shall be necessary for decisions made under the power and authority established by P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. A. §§ 125.3801 et seq. and this Zoning Code.
2. Special meetings may be called in accordance with the adopted bylaws of the Planning Commission. Special meetings held for the purpose of simple discussions or work sessions require no formal agenda.
3. All hearings and meetings shall be noticed and conducted in accordance with the Public Act 267 of 1976, as amended, that being the Michigan Open Meetings Act, M.C.L.A. §§ 15.261 et seq.; P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L.A. §§ 125.3801 et seq.); P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L.A. §§ 125.3101 et seq.); and §705., of this Zoning Code.
4. Official actions taken by Planning Commissions preceding the effective date of this Code are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this Code, shall continue with the Planning Commission established under this Code, and subject to the requirements of this Code, shall be deemed a continuation of any previous Planning Commission.

D. RULES OF PROCEDURE.

1. The Planning Commission shall adopt bylaws for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a matter of public record.
2. The Planning Commission may adopt such other rules to govern its procedure as it deems advisable, provided such rules are not in conflict with state statute or this Code.
3. Liaisons. The Planning Commission, in its bylaws, may name liaisons to the Commission. The purpose of the liaison is to provide certain village officials and quasi officials ability to participate in discussion with the Commission in addition to speaking in public participation and nothing else. At a minimum, liaisons shall include:

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- a. Planning and Zoning Department staff, and their agents and consultants;
- b. The Village Manager and/or Assistant Village Manager;
- c. The Village Attorney.

E. POWERS AND DUTIES.

1. The Planning Commission shall have their powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L.A. §§ 125.3801 et seq.; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3101 et seq., to act on those matters where this Zoning Code provides. The Planning Commission shall **not** have the power to vary a standard for a Planned Unit Development or Special Use Permit request.
2. The Planning Commission shall have sole authority and decide on all applications for a Special Use Permit.
3. The Planning Commission shall have the power to recommend to the Village Council:
 - a. Requests for a Planned Unit Development Permit;
 - b. Amendments to this Zoning Code; and
 - c. Requests for a change in Zoning Classification.
 - d. Develop and recommend approval or amendment to the Village of Elk Rapids Master Plan as a guide for development within the limits of the Village in accordance with Article III, PA. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L.A. §§ 125.3801 et seq.
4. The Planning Commission, upon approval by Village Council, shall have authority to apply for and receive grants from any private or governmental agency.

(Ord. passed 3-2-15)

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§702. ZONING BOARD OF APPEALS.

A. ESTABLISHMENT.

1. The Zoning Board of Appeals is established in accordance with Article VI of Act 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3101 et seq. The Zoning Board of Appeals shall perform its duties and exercise its powers as therein set forth and as provided by this Code such that the intent of this Code is observed and the health, safety and welfare of the public are secured.

B. MEMBERSHIP; TERMS AND CONDITIONS OF OFFICE.

1. The Zoning Board of Appeals shall consist of five members appointed by the Village Council. Individuals shall meet the following qualifications to be considered for appointment and/or reappointment to the Zoning Board of Appeals:
 - a. Shall be a qualified elector of the Village. One member shall also be a member of the Planning Commission, and one member may be a Trustee of the Village Council subject to the approval of the Village Council by majority vote and shall serve as an ex-officio member. An ex-officio member shall not be Chair of the Zoning Board of Appeals;
 - b. Shall not be a declared candidate for any Village political office, except this condition shall not apply to the Village Council representative to the Zoning Board of Appeals; and,
 - c. Upon completion of the individual's first full term appointment and before reappointment, shall have attended training for Zoning Board of Appeals members, pursuant to §B.6., below.
2. The Village Council may also appoint up to two alternate members for terms of three years each. An alternate member may be called by the Chair of the Zoning Board of Appeals or the Planning and Zoning Administrator, to sit as a regular member of the Board in the absence of a regular member if:
 - a. A regular member is unable to attend a regularly scheduled meeting; or
 - b. A regular member has abstained from a decision for reason of conflict of interest.
 - c. The alternate member having been appointed shall serve on an appeal until a final decision has been made. Such alternate member shall have the same voting rights as a regular member of the Board. Absence, inability to attend or abstention because of a conflict of interest may be established by communication of a Board member at least 24 hours prior to the regularly scheduled Board meeting.

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3. Members shall be appointed for three year terms. Terms shall be overlapping to provide for the appointment of an equal number of members each year. A successor member must be appointed within one month following the expiration of the previous term.
4. Vacancies occurring other than through the expiration of the term shall be filled for the unexpired term in the same manner as the initial appointment such that, as nearly as possible, the terms of one-third of all Zoning Board of Appeals members continue to expire each year.
5. Training. Appointed members of the Zoning Board of Appeals shall attend educational programs designed for training members of Michigan Zoning Boards of Appeal if the adopted village budget for that fiscal year includes funds to pay for tuition, registration and travel expenses for the training. Nothing in this section shall deem a member who has not had training from finishing his/her first full term of office unless the member resigns or is removed by action of the Village Council. The member shall be ineligible for reappointment at the conclusion of the first full term of office if he/she did not attend training. The Zoning Board of Appeals shall include in its bylaws what training programs qualify to meet this requirement.
6. Removal from office.
 - a. The Village Council may remove a member of the Zoning Board of Appeals for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Repeated failure to attend Zoning Board of Appeals meetings shall be considered nonfeasance in office.
 - b. The Planning and Zoning Administrator shall report to the Village Council any member who has missed three regular meetings in a row.
7. Members compensation. Members of the Zoning Board of Appeals shall serve as such without compensation unless otherwise established by resolution of the Village Council.

C. MEETINGS.

1. The Zoning Board of Appeals shall meet at least once each calendar year and thereafter meetings shall be held at the call of the Chair or the Planning and Zoning Administrator at such times as may be determined. The presence of appointed members shall be necessary to constitute a quorum and shall be necessary for decisions made under the power and authority established by P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L.A. §§ 125.3101 et seq.), and this Zoning Code.

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2. Special meetings may be called in accordance with the adopted bylaws of the Zoning Board of Appeals. Special meetings held for the purpose of simple discussions or work sessions require no formal agenda.
3. All hearings and meetings shall be noticed and conducted in accordance with the Public Act 267 of 1976, as amended, that being the Michigan Open Meetings Act, M.C.L.A. §§ 15.261 et seq., P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L.A. §§ 125.3101 et seq.), and of this Code.
4. Official actions taken by Zoning Boards of Appeal preceding the effective date of this Code are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this subchapter, shall continue with the Zoning Board of Appeals established under this Code, subject to the requirements of this Code, and shall be deemed a continuation of any previous Zoning Boards of Appeal. This subchapter shall be in full force and effect from and after its adoption and publication.

D. RULES OF PROCEDURE.

1. The Zoning Board of Appeals shall adopt bylaws for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a matter of public record.
2. The Zoning Board of Appeals may adopt such other rules to govern its procedure as it deems advisable, provided such rules are not in conflict with statute or this Zoning Code.
3. Liaisons. The Zoning Board of Appeals, in its bylaws, may name liaisons to the Board. The purpose of the liaison is to provide certain village officials and quasi-officials the ability to participate in discussion with the Zoning Board of Appeals in addition to speaking in public participation and nothing else. At a minimum, liaisons shall include:
 - a. Planning and Zoning Department staff, and their agents and consultants;
 - b. The Village Manager and/or Assistant Village Manager;
 - c. The Village Attorney.

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E. POWERS AND DUTIES.

1. The Zoning Board of Appeals shall have their powers and duties as set forth in P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3101 et seq., and to act on those matters where this Code provides for an appeal, interpretation or variance.
2. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property; make any change in the terms of intent of this Code; to vary a standard for a Planned Unit Development or Special Use Permit; or to grant a use variance.
3. The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the Applicant that there is an error in any order, requirement, decision or determination made by the administrative official or body charged with the enforcement of the Zoning Code. When an appeal is taken to the Zoning Board of Appeals, the Applicant shall have the burden of presenting sufficient evidence and argument to justify the requested order or decision.
4. Upon application by a village official or person interested in a specific affected parcel of land, when other administrative appeals have been exhausted, the Zoning Board of Appeals shall have the power to :
 - a. Interpret this Zoning Code in such a way as to carry out its intent and purpose;
 - b. Determine the precise location of a zoning district and special area boundaries;
 - c. Classify a use which is not specifically mentioned, determine the district within which the use is permitted; and,
 - d. Determine the off-street parking and loading space requirements of this Zoning Code.
5. Variances. The Zoning Board of Appeals shall have the power to authorize specific variances or departures from the dimensional requirements of this Code in accordance with §709., below.

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F. TIME LIMITATIONS.

1. An order of the Zoning Board of Appeals permitting the erection or alteration of a structure is valid for one year from the date of approval of the order, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
2. Time limits established by this section may be lengthened or shortened by the Zoning Board of Appeals as a condition imposed under the standards for conditions set forth in this Zoning Code.
3. In addition to any expiration provision contained in an order itself, the Planning and Zoning Administrator may declare an order of the Zoning Board of Appeals to be expired where there has been a change in a material circumstance or fact upon which the order was issued, such as, but not limited to, destruction of a building or natural feature, vacation of a street, or a change in topography. Before so declaring an order expired, the Planning and Zoning Administrator shall notify the landowner and if requested shall conduct a hearing with notice and procedures as provided for in the original request.

G. COURT REVIEW.

1. A decision of the Zoning Board of Appeals shall be final. However, any party aggrieved by an order, determination, or decision of the Zoning Board of Appeals may appeal to the Circuit Court, County of Antrim. All such appeals shall be filed with the Circuit Court within the time period prescribed by statute and case law.
2. The Circuit Court shall review the record and decision of the Zoning Board of Appeals to ensure that the decision:
 - a. Complies with the constitution and laws of the state;
 - b. Is based upon proper procedure;
 - c. Is supported by competent, material, and substantial evidence on the record;
 - d. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

(Ord. passed 3-2-15)

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§703. PLANNING AND ZONING ADMINISTRATOR.

- A. The Village Council may employ a Planning and Zoning Administrator and Assistant Zoning Administrator to act as its officers to carry out the proper administration of this Code. The Village Manager shall have the authority to appoint, remove, direct, and supervise a Planning and Zoning Administrator and Assistant Zoning Administrator as provided in Section 2-7 and Section 2-93(4) of the Village General Code of Ordinances. For the purpose of this Code, the Planning and Zoning Administrator and Assistant Zoning Administrator shall have the powers and duties set forth in this Section, and any reference by this Code to the Planning and Zoning Administrator shall be read to include the Assistant Zoning Administrator.
- B. The Planning and Zoning Administrator shall act only within those powers conferred by state statute and Village Code.
- C. It shall be the duty of the Planning and Zoning Administrator to:
 - a. Be thoroughly versed in the provisions of the Zoning Code;
 - b. Receive applications for Zoning Compliance, Special Use and Planned Unit Development Permits and process the same;
 - c. Inspect buildings or structures for compliance with the Zoning Compliance Permit;
 - d. Investigate alleged Code violations that come within his/her knowledge;
 - e. Act in accordance with the provisions of this section;
 - f. Serve appearance tickets as authorized under §703.E., below, and appear in court or other judicial proceedings to assist in the prosecution of Code violators;
 - g. Undertake such other Code enforcement duties as may be delegated by the Village Manager or assigned by the Village Attorney;
 - h. Make recommendations to the Village Council and Planning Commission regarding changes which would improve the content and enforcement of this Code;
 - i. Maintain an office in the Village accessible to the public;
 - j. Attend Village Council, Planning Commission, and Zoning Board of Appeals meetings upon request, and provide monthly Planning and Zoning Administration activity reports.

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- k. Report directly to the Village Manager; and
- l. When in doubt, seek the written opinion of the Village Manager, Village Attorney, or an interpretation from the Zoning Board of Appeals.

D. TERMS OF EMPLOYMENT AND REMOVAL.

The Planning and Zoning Administrator shall be employed by the Village Manager in accordance with Village personnel policy, as it may be amended from time to time.

E. APPEARANCE TICKETS.

The Planning and Zoning Administrator or Assistant Zoning Administrator is hereby authorized to issue and serve appearance tickets with respect to all civil infraction violations of this Code, as amended, and may issue and serve upon a person an appearance ticket if the Planning and Zoning Administrator or Assistant Zoning Administrator has reasonable cause to believe that the person has committed an offense. As authorized by Act 366 of the Public Acts of 1984, as amended, being M.C.L.A. §§ 764.9(c) and 764.9(f), all the appearance tickets shall be issued and processed in accordance with state statutes, as amended.

(Ord. passed 3-16-15); (Am. Ord. 460, passed 6-1-15)

§704. VILLAGE COUNCIL.

A. ADMINISTRATIVE ROLE OF VILLAGE COUNCIL.

The Village Council shall be responsible for the approval of Planned Unit Development Permits and of preliminary and final plats.

(Ord. passed 3-2-15)

§705. HEARING PROCEDURES FOR APPEALS AND APPLICATIONS.

- A. Before making a decision on an appeal or an application for a Special Use Permit, Planned Unit Development Permit, Pre-Preliminary Plat Review, or to revoke a Special Use Permit or Planned Unit Development Permit, the Planning Commission, Zoning Board of Appeals, or the Village Council, as the case may be, shall hold a public hearing on the appeal or application.
- B. Subject to §705.C., below, the hearing shall be open to the public, and all persons interested in the appeal or application shall be given an opportunity to present evidence and arguments.
- C. The Planning Commission, Zoning Board of Appeals, or Village Council may place reasonable and equitable limitations on the presentation of evidence and arguments.

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- D. The Planning Commission, Zoning Board of Appeals, or Village Council may postpone the public hearing until a subsequent meeting and may keep the public presentation portion of the hearing open to take additional information up the point a final decision is made. No further notice of a continued hearing need be published when the subsequent hearing date is set during the open session of the public hearing and there is continued compliance with the Open Meetings Act, Act 267 of the Public Acts of 1976, as amended, being M.C.L.A. §§ 15.261 through 15.275.
- E. Notice of Meetings; Michigan Open Meetings Act.
1. There shall be posted within ten days after the first meeting in each calendar year a public notice stating the dates, times, and places of Planning Commission, Zoning Board of Appeals, or Village Council regular meetings.
 2. Any change in the regular meeting schedule shall be posted within three days after the meeting at which the change is made, stating the new dates, times, and places of the regular meetings.
 3. For rescheduled regular or special meetings, a public notice stating the date, time, and place shall be posted at least 18 hours before the meeting.
- F. PUBLIC NOTICE.
1. All applications for development approval or amendment to this Code requiring a public hearing shall comply with requirements pursuant to the authority contained in P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3101 et seq.) and other provisions of this section with regard to public notification.
 2. When the provisions of this section or the Michigan Zoning Enabling Act require that notice be published, the Village Clerk or other authorized staff representative shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Village of Elk Rapids and mailed or delivered as provided in this section.
 3. All notices for public hearings, both in the newspaper and personal mailing, shall contain the following information:
 - a. Describe the nature of the request. Identify whether the request is for a rezoning, text amendment, Special Land Use, Planned Unit Development, variance, appeal, ordinance interpretation or other purpose.
 - b. Location. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist

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within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

- c. When and where the request will be considered. Indicate the date, time and place of the public hearing.
 - d. Written comments. Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
 - e. Handicap access. Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
4. Personal and mailed notice. When the provisions of this section or state law require that personal or mailed notice be provided, notice shall be provided to:
- a. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
 - b. Except for rezoning requests involving 11 or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the Village. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by eight different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 - c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to §705.F.7., Registration to Receive Notice by Mail, below.

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5. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Village Clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.
6. Timing of notice. Unless otherwise provided in the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, or this Code, where applicable, notice of a public hearing for a rezoning request, text amendment, Special Use or Planned Unit Development Permit, variance appeal, or ordinance interpretation, shall not be less than 15 days before the date the application will be considered for approval.
7. Registration to Receive Notice by Mail.
 - a. Any neighborhood organization, public utility company, railroad or any other person may register with the Village Clerk to receive written notice of all applications for development approval pursuant to §705.F.4., Personal and Mailed Notice, above, or written notice of all applications for development approval within the zoning district in which they are located. The Village Clerk shall be responsible for this notification. Fees may be assessed for the provision of this notice as established by the Village Council.
 - b. The requesting party must provide the Village Clerk information on an official form to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this section.
8. Notice of Adoption or Amendment to Zoning Code.
 - a. Notice for adoption or amendment to this Zoning Code shall comply with requirements pursuant to the authority contained in P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3401 et seq.).
 - b. Notice of intent to file petition related to the Village Council decision for adoption or amendment to this Zoning Code shall comply with requirements pursuant to the authority contained in P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3402, M.C.L.A. §§ 125.3403 et seq.).
 - c. The adopted Zoning Code or amendment shall be filed with the Village Clerk, and one notice of Code or amendment adoption shall be published in a newspaper of general circulation in the Village of Elk Rapids within 15 days after adoption. The notice of Code or amendment adoption shall include the following information:
 - The text of the Code amendment;

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- In the case of an Code adoption, the place and time where a copy of the Code may be purchased or inspected; and,
- The effective date of the Code or amendment.

G. EVIDENCE.

1. The provisions of this section apply to all hearings for which a notice is required. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence, unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

H. MODIFICATION OF APPLICATION AT HEARING.

1. In response to statements or comments by persons appearing at hearings or to suggestions or recommendations by the Village Council, Planning Commission or Zoning Board of Appeals, the Applicant may agree to modify their application, including the plans and specifications submitted.
2. Unless such modifications are so substantial or extensive that the Village Council, Planning Commission or Zoning Board of Appeals cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Boards may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

I. RECORD.

1. A recording shall be made of all public hearings required by this Code and such recordings shall be retained in accordance with state guidelines. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.
2. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be retained by the Village in accordance with state guidelines.

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J. WRITTEN DECISION.

1. Decisions made by the Planning Commission, Village Council, or Zoning Board of Appeals regarding an appeal or variance or the issuance or revocation of a Special Use or Planned Unit Development Permit shall be reduced to writing and served upon the Applicant or appellant within fourteen days of the date of decision and all other persons who make a written request for a copy.

(Ord. passed 3-2-15)

§706. NON-CONFORMING SITUATIONS.

- A. INTENT. It is the intent of this Zoning Code to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformity with the provisions of this Code serves the public health, safety and welfare, as well as the prevention of the establishment of new uses that would violate the provisions of this Code. Additionally, it is the intent of this Code that any elimination of non-conforming uses or non-conforming structures shall not unlawfully interfere with vested private property rights.
- B. CONTINUATION OF NON-CONFORMING SITUATIONS. Unless otherwise specifically provided in this Code and subject to the restrictions and qualifications set forth in §706.D. through §706.I., below, non-conforming situations that were otherwise lawful under the Zoning Code in effect on the date of the commencement of the use or completion of substantial construction of the structure or other lawful vesting of the owner's property rights, may be continued.
- C. NON-CONFORMING LOTS. When a non-conforming, undeveloped, lawfully created lot of record, or a developed lot of record upon which a legal existing structure has been more than 50% destroyed in accordance with §706.G., the non-conforming lot can be used as if it were conforming for any permitted use specified for the district in which such lot is located provided it is in conformity with all of the dimensional regulations applicable to the intended use, except that the lot is smaller than the required lot width and lot area set forth in this Code for the particular zoning district.
- D. EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.
 1. Except as specifically provided in this Section, no person may engage in any activity that causes an increase in the extent of non-conformity of a non-conforming situation. In particular, physical alteration of structures or the placement of any new structure on open land is unlawful if such activity results in:
 - a. An increase in the total amount of space devoted to a non-conforming use; or

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- b. Greater non-conformity with respect to dimensional non-conformity and restrictions, such as but not limited to setback requirements, height limitations, or density requirements or other requirements such as parking requirements.
 2. Subject to §706.D.4., below, a non-conforming use may be extended throughout any portion of a completed building that, when the use was made non-conforming by this Code, was manifestly designed or arranged to accommodate such use. However, a non-conforming use may not be extended to additional buildings or to land outside the original building.
 3. A non-conforming use of open land may not be extended to cover more land than was occupied by that use when it became non-conforming.
 4. The volume, intensity or frequency of use of property, where a non-conforming situation exists, may be increased, and the equipment or processes used at a location where a non-conforming situation exists, may be changed, if these or similar changes only amount to changes in the degree of activity rather than changes in the kind of activity and that no violations of other divisions of this section occur.
 5. The construction of a private garage on a lot where a non-conforming single-family residential use exists is not considered an extension or an enlargement of a non-conforming situation. The construction of a private garage is therefore permitted subject to all other requirements of this Code.
- E. REPAIR, RESTORATION AND RECONSTRUCTION, OF DAMAGED NONCONFORMING STRUCTURES.
1. Nothing in this Code shall prevent the reconstruction, repair, restoration or continued use of any non-conforming building or structure damaged by fire, collapse, explosion, or act of God, provided that the cost of such repair does not exceed 100% of the assessed value of the structure as determined for tax purposes.
 2. Nothing in this Code shall prevent the reconstruction, repair, or restoration of a non-conforming building or structure or part thereof lawfully existing at the effective date of this Code that may be necessary to secure or ensure the continued advantageous use of the building or structure during its natural life, provided that such reconstruction, repair, or restoration proposes no change in the use of the building, structure or any part thereof, and provided further that such repair, reconstruction, repair, or restoration does not exceed an aggregate cost of 100% of the assessed value of the structure as determined for tax purposes.

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3. A Zoning Compliance Permit is required for the reconstruction, repair, or restoration cited in §706.E.1. and §706.E.2., above. For purposes of this section:
 - a. The cost of reconstruction, repair, or restoration shall mean the fair market value of the materials and services necessary to accomplish such reconstruction, repair, or restoration.
 - b. The cost of reconstruction, repair, or restoration shall mean the total cost of all such intended work, and no person may seek to avoid the intent of §706.E.1. and §706.E.2., above, by doing such work incrementally.

F. CHANGE IN USE OF PROPERTY WHERE A NON-CONFORMING SITUATION EXISTS.

1. A change in use of property where a non-conforming situation exists that is sufficiently substantial to require a new Zoning Compliance Permit or Special Use Permit may not be made except in accordance with §706.F.2. through §706.F.4., below. This requirement shall not apply to a non-conforming sign.
2. If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this Code applicable to that use are met, then approval to make the change must be obtained in the same manner as approval to make the initial use of a vacant lot. Once conformity with this Code is achieved, the property may not revert to its non-conforming status.
3. If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this Code applicable to that use cannot reasonably be complied with, then the change is permissible if the Zoning Board of Appeals authorizes the change.
4. If the intended change in use is to another principal use that is also non-conforming, then the change is permissible if the Zoning Board of Appeals finds the proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

G. ABANDONMENT AND DISCONTINUANCE OF NON-CONFORMING SITUATIONS.

1. When a non-conforming use is discontinued for a consecutive period of 180 days or discontinued for any period of time without a present intention to reinstate the non-conforming use, the property involved may thereafter be used only for conforming purposes.

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2. If the principal activity on property where a dimensional non-conformity exists is discontinued for a consecutive period of 180 days without intent to resume the activity, or discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the applicable dimensional regulations being met unless the Zoning Board of Appeals allows the property to be used for this purpose without correcting the non-conforming dimensions. This permit may be issued if the Zoning Board of Appeals finds that the standards of §706.F. are met.
3. For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this section, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a non-conforming apartment building for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a non-conforming use is maintained in conjunction with a conforming use, discontinuance of a non-conforming use of the required period shall terminate the right to maintain it thereafter.
4. When a structure or operation made non-conforming by this Code is vacant or discontinued at the effective date of this Zoning Code, the 180-day period for purposes of this section begins on the effective date of this Code.

(Ord. passed 3-2-15)

§707. ENFORCEMENT AND PENALTIES.

A. COMPLAINTS REGARDING VIOLATIONS.

Whenever the Planning and Zoning Administrator becomes aware of or receives a complaint alleging a violation of this Code, he/she shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken.

B. PERSONS LIABLE.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Code, may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided. The owner, tenant, or occupant of any building or land or part thereof, and their agents and representatives, are responsible for ascertain the applicable regulations and pursuing the formal processes necessary to obtain approvals, and cannot rely on statements made by municipal employees or officials if the formal processes yield a different result.

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C. PROCEDURE UPON DISCOVERY OF VIOLATIONS.

If the Planning and Zoning Administrator becomes aware of or receives a complaint of an alleged violation, the process of enforcement shall be as follows:

1. A complaint form shall be assigned a number.
2. A preliminary visit shall be made at the site to identify the alleged violation.
3. If a violation is identified, the landowner and/or contractor shall be informed, in writing, of the nature of the violation, of the action necessary to correct the violation, and of the date when the compliance is to be completed. The owner or contractor shall also be informed of the right to appeal the decision of the Planning and Zoning Administrator. This action shall be taken in person or by certified mail.
4. Where the violation is one of unlawful construction, reconstruction, or removal, a stop work notice form shall be attached to the site or delivered to the contractor or owner. The owner or owner's agent shall also be informed of the right to appeal the decision of the Planning and Zoning Administrator.
5. The site of the alleged violation shall be re-inspected on the date when the owner or contractor was informed compliance was to be completed.
6. If compliance has not been completed, and an appeal of the decision of the Planning and Zoning Administrator has not been filed, an appearance ticket shall be issued to the alleged violator, after consultation with the Village Attorney and after the Village President has been informed.
7. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Code if the violation continues, and the violation is one of unlawful construction, reconstruction, alteration, removal, or usage or poses a danger to the public health, safety, or welfare, the Planning and Zoning Administrator may seek enforcement without prior written notice by requesting, through the Village President, that the Village Council invoke any one of the remedies authorized in this Code.

D. VIOLATIONS.

1. Any violation of any provision of this Code or any permit, site plan approval, license or exception granted hereunder, or any lawful order of the Planning and Zoning Administrator, Zoning Board of Appeals, Planning Commission, Village Council, or their designated representative, issued in pursuance of this Code, shall be a Municipal Civil Infraction as described in Chapter 26 of Village of Elk Rapids, Code of Ordinances. A violation includes any

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act which is prohibited, made, or declared to be unlawful of an offense by this Code and any omission or failure to act where the act is required by this Code.

2. The sanction for any violation of this Code which is a Municipal Civil Infraction shall be a civil fine as provided in §707.D.4., below, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1962, as amended, being M.C.L.A. § 600.8701 et seq. and other applicable laws.
3. The Planning and Zoning Administrator and police officers of the Village are the officials authorized to issue Municipal Civil Infraction citations and Municipal Civil Infraction violation notices for violations of this Code.
4. Schedule of Fines.
 - a. A person, corporation or firm who, as a result of violating any provision of this Code, or who allows said violation to occur on premises owned by them, is responsible for a municipal civil infraction and shall pay a civil fine of not less than \$25 nor more than \$500, plus costs and other sanctions, for each infraction.
 - b. Fines for Violation Notices. A person, corporation or firm, who as a result of violating any provision of this Code, receives a municipal civil infraction violation notice, upon a determination of responsibility thereon, shall pay a civil fine as follows:
 - \$25 for the first violation.
 - \$50 for the second violation within a three month period.
 - \$75 for a third violation within a six month period.
 - c. Repeat offenses shall be subject to increased fines as set forth below. As used in this section, Repeat Offense means a second (or any subsequent) Municipal Civil Infraction violation of the same requirement or provision of this Code (1) committed by a person, corporation or firm within any twelve month period; and (2) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Code shall be as follows:
 - The fine for any offense which is a repeat offense shall be no less than \$250 plus costs and other sanctions.
 - The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500 plus costs and other sanctions.

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5. The Village Council may institute those remedies provided by statute, court rule, and the case law of the state, law or equity, to prevent, enjoin, abate or remove any unlawful erection, construction, maintenance, or use. Damages, costs and reasonable attorney fees, as the law provides, shall be paid cumulative and in addition to all other remedies provided at law or equity.
6. The various parts, sections and clauses of this section are hereby declared to be severable. If any part, clause, sentence, paragraph or section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.

E. PERMIT REVOCATION.

1. A Zoning Compliance Permit, Special Use Permit, or Planned Unit Development Permit may be revoked by the permit-issuing authority, in accordance with the provisions of this section, if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Code, or any additional requirement lawfully imposed by the permit-issuing authority.
2. Before a Zoning Compliance Permit may be revoked, the owner, contractor, or alleged violator shall be notified in writing of the reason for such revocation and the right to appeal the decision of the Planning and Zoning Administrator to the Zoning Board of Appeals. "Notification in writing" shall be the posting of a stop work order, with the required information, at the site of the construction or alleged wrongful activity and placing the revocation order in the regular mail to the address listed for the Applicant, or his/her signed agent, or by personal service on such person or his/her signed agent.
3. Before a Special Use Permit or Planned Unit Development Permit may be revoked, all of the notice and hearing requirements for such permit shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation with:
 - a. The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked shall be upon the party advocating that position. The burden of persuasion shall also be upon that party; and,
 - b. A motion to revoke a permit shall give the permit recipient a ten day notice of intent to revoke the permit and shall inform the recipient of the alleged reason(s) for the revocation and of the right to request an informal hearing on the allegations. If the permit is revoked, the Planning and Zoning Administrator shall provide a written statement of the decision and the reasons therefor.

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4. No person may continue to make use of land or buildings in the manner authorized by any Zoning Compliance Permit, Special Use Permit, or Planned Unit Development Permit after such permit has been revoked in accordance with the provisions of this Section.

F. TIME PERIOD FOR JUDICIAL REVIEW.

A person aggrieved by a decision of the Zoning Board of Appeals and/or this Code may appeal to the Circuit Court for the County of Antrim. All such appeals shall be filed with the Circuit Court within the time period prescribed by statute and case law.

G. ENFORCEMENT AND PENALTIES FOR FAILURE TO COMPLY WITH PLATTING PROVISIONS.

1. Enforcement. No subdivision plat required by this Code or the Subdivision Control Act shall be admitted to the public land records of Antrim County or received or recorded by the Antrim County Register of Deeds, until such subdivision plat has received final approval by the Village Council. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this Code, unless such public improvement shall have already been accepted, opened, or otherwise received the legal status of a public improvement prior to the adoption of this Code and unless such public improvement shall correspond in its location and to the other requirements of this Code.
2. Penalties.
 - a. Penalties for failure to comply with the provisions of this Zoning Code, as to platting procedures, shall subject the offender to a fine of not more than \$500. Each day that a violation of this Code is continued or permitted to exist without compliance shall constitute a separate act subject to additional fines and costs as set forth in this section.
 - b. Nothing herein contained shall prevent the Village Council or any other public official from taking such lawful action as is necessary to restrain or prevent the violation of this Code or of the Subdivision Control Act. Further, nothing herein contained shall preclude the prosecuting attorney from pursuing a violation of the Subdivision Control Act under state statutes, should the prosecutor, in his or her sole discretion, deem such action to be appropriate.

(Ord. passed 3-2-15)

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§708. APPEALS, VARIANCES, AND INTERPRETATIONS.

A. ZONING APPEALS.

1. The Zoning Board of Appeals shall hear and decide appeals taken by a person aggrieved or by an officer, department, board or bureau of the state or local unit of government by decisions of the Planning and Zoning Administrator or by any other official in administering or enforcing any provisions of this Zoning Code.
2. The procedure for appealing to the Zoning Board of Appeals is as follows:
 - a. The appeal shall be taken within such time as prescribed by the by-laws of the Zoning Board of Appeals.
 - b. A fee prescribed by the Village Council shall be submitted to the Planning and Zoning Administrator at the time of the filing of the Village application form.
 - c. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency or bureau of the village, county, state, federal, or other legally constituted form of government.
 - d. The person, firm, agent, or attorney thereof making the appeal shall file by completing and signing the application form provided by the Village.
 - e. All persons not licensed to practice law in the state who are taking an appeal shall file a written statement signed by the principal stating the agent's right to act upon his/her behalf.
 - f. The completed village application form shall be submitted to the Planning and Zoning Administrator who shall forthwith transmit to the recording secretary for the Zoning Board of Appeals the application and all papers constituting the record from which the action appeals was taken.
 - g. An appeal stays all proceedings in furtherance of the action appealed.
 - h. When a properly executed application form has been filed with the recording secretary for the Zoning Board of Appeals, the recording secretary, upon consultation with the Chair of the Zoning Board of Appeals, shall schedule the matter for a public hearing and provide notice of the hearing in accordance with §705.F., of this Code and the by-laws of the Zoning Board of Appeals. The Village Attorney shall, forthwith, be provided a copy of the application form.

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B. VARIANCES.

1. Subject to §B.2., of this section, the Board of Appeals, by affirmative vote of the majority of its membership, shall, after notification and public hearing in accordance with §705.F., of this Code have the power to authorize, upon appeal, a dimensional non-use variance from construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning code or to any other non-use related standard in the zoning code. provided the Board of Appeals determines that the applicant has provided substantial evidence of a "practical difficulty," such that in granting the variance, the spirit of the zoning code is observed, public safety is secured, and substantial justice is done, by demonstrating that the following conditions exist:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district; special conditions or circumstances normally include:
 - Exceptional narrowness, shallowness or shape of a specific property on the effective date of this section;
 - Exceptional topographic conditions or other extraordinary situation on the land, building or structure;
 - Use or development of the property immediately adjoining the property in question;
 - b. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code;
 - c. That special conditions and circumstances do not result from the actions of the applicant;
 - d. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure;
 - e. That the granting of such variance will not be injurious to neighboring properties, detrimental to the general welfare and will not impair the general purposes and intent of this Code; and

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- f. That through the granting of such variance, the spirit of this Code shall be observed, public safety secured, and substantial justice done.
 2. The non-conforming dimensions of other lands, structures, or buildings in the same zoning district shall not be considered grounds for the issuance of a variance.
 3. No authorization is granted under the terms of this Zoning Code for use variances.
- C. RULES FOR GRANTING VARIANCES; INTERPRETATION AND OTHER POWERS.
 1. The following rules shall be applied in the granting of a variance:
 - a. The Zoning Board of Appeals shall specify, in writing, such conditions regarding the character, location, and other features which will, in its judgment, secure the objectives and intent of this Zoning Code. The breach of such condition shall automatically invalidate the permit granted.
 - b. Each variance granted under the provisions of this Zoning Code shall become null and void unless the construction authorized has been commenced within 12 months after the hearing date on which the variance was granted.
 2. The Zoning Board of Appeals, by an affirmative vote of the majority of the membership, shall have the power to:
 - a. Interpret, upon request, the provisions of this Zoning Code in such a way as to carry on the intent and purpose of this Zoning Code.
 - b. Determine the precise location of the boundary lines between zoning districts.
 - c. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
 - d. Determine the off-street parking and loading space requirements of any use not specifically mentioned in this Zoning Code.
 - e. Apply the standards set forth in §706., above, regarding non-conforming situations.

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D. REAPPLICATION FOR APPEAL, VARIANCE OR INTERPRETATION.

1. Except on the grounds of newly-discovered evidence or proof of changed conditions found by the Board to be valid, 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 year from the date of the last denial. If the evidence or proof is found to be valid, the Board shall then proceed with the scheduling of the appeal variance or interpretation, which shall be noticed in accordance with §705.F., above.

E. PROCEDURAL COMPLIANCE REGARDING NON-CONFORMING SITUATIONS.

1. Applicant landowners shall have the right to apply to the Zoning Board of Appeals when they wish to complete, restore, reconstruct, extend, or substitute a different non-conforming use or dimensional non-conformity.
2. A written application on forms provided by the Village, shall be filed with the Planning and Zoning Administrator setting forth the name and address of the Applicant, giving a legal description of the property to which the application pertains, and including such other information as may be necessary to enable the Zoning Board of Appeals to make a determination of the matter. The Zoning Board of Appeals may require the furnishing of such additional information as it considers necessary.
3. The notice and hearing procedure shall be as set forth in §705, above.
4. Approval may be given to the Planning and Zoning Administrator for the issuance of a Zoning Compliance Permit, when the Zoning Board of Appeals is satisfied and finds that the evidence in the official record supports all the standards for approval. In addition to the specific standards set forth in §706.D. through §706.G. the Board is *not* empowered to modify the restrictions regarding dimensional non-conformity, non-conforming lots, non-conforming signs, non-conforming uses, or non-conforming situations unless it also finds that:
 - a. The use or structure was lawful at the time of its inception.
 - b. No useful purpose would be served by strict application of the provisions or requirements of this Zoning Code with which the use or structure does not conform.
 - c. The use or structure does not and is not likely to significantly depress the value of nearby properties.
 - d. The requested acts are necessary to implement the spirit of the Zoning Code to insure public health, safety and welfare or to accomplish substantial justice.

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5. Conditions may be attached, including any time limit for completion where necessary to assure that the use or structure does not become contrary to the standards set forth in §709.E.4., of this section.
6. Decisions in writing shall comply with §705.J.
7. Unless otherwise stated, the time limits set forth in §706.G. shall apply.
8. No application regarding a non-conforming situation which has been denied wholly or in part by the Board shall be resubmitted within one year after the prior public hearing, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid. (See §709.C., above)

F. ESSENTIAL SERVICES.

1. The Zoning Board of Appeals shall have the power to permit the erection and use of a building, or an addition to a building, or a public service corporation for essential services, in any permitted district to a greater height or of larger area than the district requirements established by this code, if the Board shall find that such height or area is reasonably necessary for the public convenience and service.

G. BURDEN OF PROOF IN APPEALS AND VARIANCES.

1. When an appeal is taken to the Zoning Board of Appeals, the Applicant shall have the burden of presenting to the Board sufficient evidence and argument to justify the requested order or decision.

H. BOND AUTHORIZED.

1. In authorizing any variance, or in granting any conditional, temporary, or special approval permits, the Zoning Board of Appeals may require that a bond be furnished to insure compliance with the requirements, specifications and conditions imposed with the granting of the variance or permit and to insure the discontinuance of a temporary use by a stipulated time.

(Ord. passed 3-2-15)

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